

Adopted	Rejected
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## COMMITTEE REPORT

YES:	15
NO:	10

### MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1001, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 26, between lines 39 and 40, begin a new paragraph and insert:
- 2 "YOUTH FIRST, INC.
- 3 

Total Operating Expense	250,000
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- 4 The budget agency shall transfer \$250,000 to the Youth First, Inc.
- 5 from the state general fund before August 1, 2009, for the purpose
- 6 of funding school social workers.
- 7 Release of funds must be approved by the budget agency after
- 8 budget committee review before money may be allotted from the
- 9 above appropriation to Youth First organization, Inc."
- 10 Page 49, line 2, delete "2,406,684" and insert "3,406,684".
- 11 Page 49, between lines 2 and 3, begin a new line blocked left and
- 12 insert:
- 13 "Of the above appropriation, the office of tourism shall distribute
- 14 \$1,000,000 to the Indiana Sports Corporation to promote the
- 15 hosting of amateur sporting events in Indiana cities. Funds may be
- 16 released after review by the budget committee. The above

1       appropriation includes \$500,000 for grants for local convention  
 2       and visitors bureaus and other local organizations that exist to  
 3       promote tourism. The office of tourism shall develop standards for  
 4       applications for grants and awarding grants, including a local  
 5       match requirement. The maximum amount of a grant is \$50,000.  
 6       Funds may be released only after review by the budget  
 7       committee."

8       Page 82, after line 49, begin a new line blocked left and insert:

9       **"Notwithstanding any other provision of this SECTION, the**  
 10       **amounts appropriated to the state universities and state university**  
 11       **programs from the state general fund may not be construed as the**  
 12       **base amount of funding for the universities or programs. The total**  
 13       **amount appropriated from the state general fund and the ARRA**  
 14       **State Fiscal Stabilization Act is considered the base amount of**  
 15       **funding for each university or program."**

16       Page 88, line 24, delete "\$250,000" and insert "\$460,000".

17       Page 95, between lines 20 and 21, begin a new line blocked left and  
 18       insert:

19       **"The foregoing appropriation for alternative schools may be used**  
 20       **for the purposes of the dropout prevention program fund**  
 21       **(IC 20-20-37)."**

22       Page 96, line 10, delete "BACKBONE".

23       Page 96, between lines 12 and 13, begin a new line double block  
 24       indented and insert:

25       **"INTERNET BACKBONE".**

26       Page 96, between lines 13 and 14, begin a new line double block  
 27       indented and insert:

28       **"I-SPAN PILOT PROJECT**

29       **From ARRA Funding For Broadband Programs or**  
 30       **Development**

31       **Total Operating Expenses                      4,000,000**

32       **The budget agency shall apply for the appropriate distance**  
 33       **learning, telemedicine, and broadband or national**  
 34       **telecommunications and information administration broadband**  
 35       **technology opportunities program grants to provide funding for**  
 36       **the above appropriation. If grants are not available in amounts**  
 37       **sufficient to provide funding for the above appropriation, any**  
 38       **other funding under ARRA not otherwise appropriated by this act**

1 may be used to fund the above appropriation. Notwithstanding  
 2 IC 4-13-2-19 and any other law, the above appropriation for the  
 3 I-SPAN Pilot Project does not revert to the general fund or another  
 4 fund at the close of a state fiscal year but remains available in  
 5 subsequent state fiscal years for the purposes of the  
 6 appropriation."

7 Page 117, between lines 40 and 41, begin a new paragraph and  
 8 insert:

9 "SECTION 49. IC 2-5-31 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 11 UPON PASSAGE]:

12 **Chapter 31. Indiana Soldiers' and Sailors' Children's Home**  
 13 **Task Force**

14 **Sec. 1. As used in this chapter, "children's home" refers to the**  
 15 **Indiana Soldiers' and Sailors' Children's Home established by**  
 16 **IC 20-22.5-2-5 (IC 16-33-4-5 before July 1, 2009).**

17 **Sec. 2. As used in this chapter, "task force" refers to the Indiana**  
 18 **Soldiers' and Sailors' Children's Home task force established by**  
 19 **section 3 of this chapter.**

20 **Sec. 3. (a) The Indiana Soldiers' and Sailors' Children's Home**  
 21 **task force is established.**

22 **(b) The task force consists of eight (8) voting members and five**  
 23 **(5) nonvoting members.**

24 **(c) The voting members consist of the following:**

25 **(1) Two (2) members of the house of representatives**  
 26 **appointed by the speaker of the house of representatives.**

27 **(2) Two (2) members of the house of representatives**  
 28 **appointed by the minority leader of the house of**  
 29 **representatives.**

30 **(3) Two (2) members of the senate appointed by the president**  
 31 **pro tempore of the senate.**

32 **(4) Two (2) members of the senate appointed by the minority**  
 33 **leader of the senate.**

34 **(d) The five (5) nonvoting members serve in an advisory**  
 35 **capacity. The nonvoting members consist of the following:**

36 **(1) The state superintendent of public instruction or the state**  
 37 **superintendent's designee.**

38 **(2) The director of the department of child services**

1 established by IC 31-25-1-1 or the director's designee.

2 (3) The department adjutant of the American Legion  
3 Department of Indiana or the department adjutant's designee.

4 (4) A representative of the Alumni Association of the Indiana  
5 Soldiers' and Sailors' Children's Home, selected by the  
6 Alumni Association of the Indiana Soldiers' and Sailors'  
7 Children's Home.

8 (5) The Marion County juvenile court judge.

9 (e) If a legislative member of the task force ceases being a  
10 member of the chamber from which the member was appointed,  
11 the member ceases to be a member of the task force.

12 (f) A legislative member of the task force may be removed at  
13 any time by the appointing authority who appointed the legislative  
14 member.

15 (g) If a vacancy exists on the task force, the appointing authority  
16 who appointed the former member whose position has become  
17 vacant shall appoint an individual to fill the vacancy.

18 Sec. 4. The following voting members shall serve as co-chairs of  
19 the task force:

20 (1) One (1) member described in section 3(c)(1) of this chapter  
21 appointed by the speaker of the house of representatives.

22 (2) One (1) member described in section 3(c)(2) of this chapter  
23 appointed by the president pro tempore of the senate.

24 Sec. 5. Five (5) voting task force members constitute a quorum.  
25 The affirmative votes of at least five (5) voting members of the task  
26 force are necessary for the task force to make recommendations or  
27 adopt a final report.

28 Sec. 6. (a) Each member of the task force who is not a state  
29 employee is entitled to the minimum salary per diem provided by  
30 IC 4-10-11-2.1(b). The member is also entitled to reimbursement  
31 for traveling expenses as provided under IC 4-13-1-4 and other  
32 expenses actually incurred in connection with the member's duties  
33 as provided in the state policies and procedures established by the  
34 Indiana department of administration and approved by the budget  
35 agency.

36 (b) Each member of the task force who is a state employee but  
37 is not a member of the general assembly is entitled to  
38 reimbursement for traveling expenses as provided under

1 IC 4-13-1-4 and other expenses actually incurred in connection  
2 with the member's duties as provided in the state travel policies  
3 and procedures established by the Indiana department of  
4 administration and approved by the budget agency.

5 (c) Each member of the task force who is a member of the  
6 general assembly is entitled to receive the same per diem, mileage,  
7 and travel allowances paid to members of the general assembly  
8 serving on interim study committees established by the legislative  
9 council.

10 Sec. 7. (a) The task force shall do the following:

11 (1) Evaluate estimated future capital and operating costs  
12 needed to continue to operate the children's home as it was  
13 operated on July 1, 2008.

14 (2) Review the current fee structure for parents or guardians  
15 of children residing at the children's home.

16 (3) Evaluate potential management efficiencies that may be  
17 made at the children's home.

18 (4) Evaluate the feasibility of obtaining federal or private  
19 funds to continue to operate the children's home as it was  
20 operated on July 1, 2008, or under an alternative management  
21 and ownership structure.

22 (5) Evaluate possible alternative uses for the buildings,  
23 grounds, equipment, and other assets of the children's home,  
24 including possible use as a charter school, a vocational school,  
25 a higher education facility, an alternate facility for a state  
26 agency or a unit of local government, or any other alternative  
27 that the task force considers to be appropriate.

28 (6) Evaluate the potential to operate the children's home in its  
29 current capacity or in some other capacity under a  
30 public-private agreement.

31 (7) Evaluate alternatives for education and other services for  
32 the children at the children's home.

33 (8) Evaluate whether the home should cease operation after  
34 June 30, 2016, or whether it should operate in a different  
35 capacity.

36 (9) Make specific recommendations regarding the placement  
37 of children if the children's home is closed.

38 (b) The task force shall hear testimony and receive information

1 regarding children discharged from the children's home as a result  
 2 of the children's home closure in May 2009. The task force may  
 3 consult with the American Legion Department of Indiana to  
 4 receive information voluntarily provided to the American Legion  
 5 Department of Indiana by the parent or guardian of a child  
 6 discharged from the children's home as a result of the children's  
 7 home's closure in May 2009. The department of child services shall  
 8 before July 1 of each year provide the task force with information  
 9 on a child discharged from the children's home as a result of the  
 10 children's home's closure in May 2009 who is in the custody of the  
 11 department of child services, regarding whether the child:

12 (1) is currently enrolled in school; or

13 (2) has been arrested or incarcerated.

14 The department of child services is not required to provide the task  
 15 force information pertaining to the child to the extent the  
 16 information violates any federal or state confidentiality provisions.

17 **Sec. 8. The task force shall annually report the results of its**  
 18 **study in an electronic format under IC 5-14-6 to the general**  
 19 **assembly before November 1.**

20 **Sec. 9. (a) The legislative services agency shall provide staff**  
 21 **support for the task force.**

22 **(b) The task force may employ consultants to assist it with its**  
 23 **study with the approval of the legislative council.**

24 **Sec. 10. This chapter expires July 1, 2016."**

25 Page 119, between lines 22 and 23, begin a new paragraph and  
 26 insert:

27 "SECTION 55. IC 4-10-18-10 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) The state  
 29 board of finance may lend money from the fund to entities listed in  
 30 subsections (e) through ~~(j)~~ **(k)** for the purposes specified in those  
 31 subsections.

32 (b) An entity must apply for the loan before May 1, 1989, in a form  
 33 approved by the state board of finance. As part of the application, the  
 34 entity shall submit a plan for its use of the loan proceeds and for the  
 35 repayment of the loan. Within sixty (60) days after receipt of each  
 36 application, the board shall meet to consider the application and to  
 37 review its accuracy and completeness and to determine the need for the  
 38 loan. The board shall authorize a loan to an entity that makes an

1 application if the board approves its accuracy and completeness and  
2 determines that there is a need for the loan and an adequate method of  
3 repayment.

4 (c) The state board of finance shall determine the terms of each  
5 loan, which must include the following:

6 (1) The duration of the loan, which must not exceed twelve (12)  
7 years.

8 (2) The repayment schedule of the loan, which must provide that  
9 no payments are due during the first two (2) years of the loan.

10 (3) A variable rate of interest to be determined by the board and  
11 adjusted annually. The interest rate must be the greater of:

12 (A) five percent (5%); or

13 (B) two-thirds ( $2/3$ ) of the interest rate for fifty-two (52) week  
14 United States Treasury bills on the anniversary date of the  
15 loan, but not to exceed ten percent (10%).

16 (4) The amount of the loan or loans, which may not exceed the  
17 maximum amounts established for the entity by this section.

18 (5) Any other conditions specified by the board.

19 (d) An entity may borrow money under this section by adoption of  
20 an ordinance or a resolution and, as set forth in IC 5-1-14, may use any  
21 source of revenue to repay a loan under this section. This section  
22 constitutes complete authority for the entity to borrow from the fund.  
23 If an entity described in subsection (i) fails to make any repayments of  
24 a loan, the amount payable shall be withheld by the auditor of state  
25 from any other money payable to the consolidated city. If any other  
26 entity described in this section fails to make any repayments of a loan,  
27 the amount payable shall be withheld by the auditor of state from any  
28 other money payable to the entity. The amount withheld shall be  
29 transferred to the fund to the credit of the entity.

30 (e) A loan under this section may be made to a city located in a  
31 county having a population of more than twenty-four thousand (24,000)  
32 but less than twenty-five thousand (25,000) for the city's waterworks  
33 facility. The amount of the loan may not exceed one million six  
34 hundred thousand dollars (\$1,600,000).

35 (f) A loan under this section may be made to a city the territory of  
36 which is included in part within the Lake Michigan corridor (as defined  
37 in IC 14-13-3-2) for a marina development project. As a part of its  
38 application under subsection (b), the city must include the following:

(1) Written approval by the Lake Michigan marina development commission of the project to be funded by the loan proceeds.

(2) A written determination by the commission of the amount needed by the city, for the project and of the amount of the maximum loan amount under this subsection that should be lent to the city.

The maximum amount of loans available for all cities that are eligible for a loan under this subsection is eight million six hundred thousand dollars (\$8,600,000).

(g) A loan under this section may be made to a county having a population of more than one hundred seventy thousand (170,000) but less than one hundred eighty thousand (180,000) for use by the airport authority in the county for the construction of runways. The amount of the loan may not exceed seven million dollars (\$7,000,000). The county may lend the proceeds of its loan to an airport authority for the public purpose of fostering economic growth in the county.

(h) A loan under this section may be made to a city having a population of more than fifty-nine thousand (59,000) but less than fifty-nine thousand seven hundred (59,700) for the construction of parking facilities. The amount of the loan may not exceed three million dollars (\$3,000,000).

(i) A loan or loans under this section may be made to a consolidated city, a local public improvement bond bank, or any board, authority, or commission of the consolidated city, to fund economic development projects under IC 36-7-15.2-5 or to refund obligations issued to fund economic development projects. The amount of the loan may not exceed thirty million dollars (\$30,000,000).

(j) A loan under this section may be made to a county having a population of more than thirteen thousand five hundred (13,500) but less than fourteen thousand (14,000) for extension of airport runways. The amount of the loan may not exceed three hundred thousand dollars (\$300,000).

**(k) A loan under this section may be made to Covington Community School Corporation to refund the amount due on a tax anticipation warrant loan. The amount of the loan may not exceed two million seven hundred thousand dollars (\$2,700,000), to be paid back from any source of money that is legally available to the school corporation. Notwithstanding subsection (b), the school**



corporation must apply for the loan before June 30, 2010. Notwithstanding subsection (c), repayment of the loan shall be made in equal installments over five (5) years with the first installment due not more than six (6) months after the date loan proceeds are received by the school corporation.

~~(k)~~ (l) IC 6-1.1-20 does not apply to a loan made by an entity under this section.

~~(j)~~ (m) As used in this section, "entity" means a governmental entity authorized to obtain a loan under subsections (e) through ~~(j)~~: (k).

SECTION 55. IC 4-12-1-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.5. (a) As used in this section, "performance based budgeting" means a system of budgeting that uses statements of missions, goals, and objectives to explain why the money is being spent and allocates resources to specific objectives based on program goals and measured results.

(b) The budget agency shall establish the forms and procedures to be used for a performance based budget and budget report, after review by the budget committee.

(c) Beginning with the budget bill prepared for the biennium beginning July 1, 2011, state agencies shall submit to the budget agency information for the budget bill and budget report required under this chapter, and the budget agency and budget committee shall prepare each budget bill and budget report required under this chapter using a performance based budgeting system. Appropriation recommendations from the commission for higher education under IC 21-18-9-1 shall be submitted using a performance based budgeting system."

Page 125, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 59. IC 4-13.6-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided by this chapter and ~~IC 16-33-4-10~~, IC 20-22.5-2-8, if the estimated cost of a public works project is at least seventy-five thousand dollars (\$75,000), the division shall award a contract for the project based on competitive bids.

(b) If the estimated cost of a public works project is at least seventy-five thousand dollars (\$75,000), the division shall develop contract documents for a public works contract and keep the contract

1 documents on file in its offices so that they may be inspected by  
2 contractors and members of the public.

3 (c) The division shall advertise for bids under section 8 of this  
4 chapter. The director shall award a contract under IC 4-13.6-6.

5 (d) A contractor shall submit under oath a financial statement as a  
6 part of the bid. The director may waive filing of the financial statement.

7 (e) After bids are opened but before a contract is awarded, the  
8 director may require a contractor to submit a statement of the  
9 contractor's experience, a proposed plan of performing the work, and  
10 a listing of the equipment that is available to the contractor for  
11 performance of the work.

12 (f) The statements required by this section shall be submitted on  
13 forms approved by the state board of accounts. The forms shall be  
14 based, so far as applicable, on standard questionnaires and financial  
15 statements for contractors used in investigating the qualifications of  
16 contractors on public construction work.

17 (g) The division shall reject the bid of a contractor if:

18 (1) the estimated cost of the public works project is one hundred  
19 fifty thousand dollars (\$150,000) or more and the contractor is not  
20 qualified under chapter 4 of this article;

21 (2) the estimated cost of the public works project is less than one  
22 hundred fifty thousand dollars (\$150,000) and the director makes  
23 a written determination, based upon information provided under  
24 subsections (d) and (e), that the contractor is not qualified to  
25 perform the public works contract;

26 (3) the contractor has failed to perform a previous contract with  
27 the state satisfactorily and has submitted the bid during a period  
28 of suspension imposed by the director (the failure of the  
29 contractor to perform a contract satisfactorily must be based upon  
30 a written determination by the director);

31 (4) the contractor has not complied with a rule adopted under this  
32 article and the rule specifies that failure to comply with it is a  
33 ground for rejection of a bid; or

34 (5) the contractor has not complied with any requirement under  
35 section 2.5 of this chapter.

36 (h) The division shall keep a record of all bids. The state board of  
37 accounts shall approve the form of this record, and the record must  
38 include at least the following information:

- 1 (1) The name of each contractor.
- 2 (2) The amount bid by each contractor.
- 3 (3) The name of the contractor making the lowest bid.
- 4 (4) The name of the contractor to whom the contract was
- 5 awarded.
- 6 (5) The reason the contract was awarded to a contractor other than
- 7 the lowest bidder, if applicable.
- 8 (6) Purchase order numbers."

9 Page 127, between lines 23 and 24, begin a new paragraph and  
10 insert:

11 "SECTION 67. IC 5-10-8-8, AS AMENDED BY P.L.43-2007,  
12 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2009]: Sec. 8. (a) This section applies only to the state and  
14 employees who are not covered by a plan established under section 6  
15 of this chapter.

16 (b) After June 30, 1986, the state shall provide a group health  
17 insurance plan to each retired employee:

- 18 (1) whose retirement date is:
  - 19 (A) after June 29, 1986, for a retired employee who was a
  - 20 member of the field examiners' retirement fund;
  - 21 (B) after May 31, 1986, for a retired employee who was a
  - 22 member of the Indiana state teachers' retirement fund; or
  - 23 (C) after June 30, 1986, for a retired employee not covered by
  - 24 clause (A) or (B);

25 (2) who will have reached fifty-five (55) years of age on or before  
26 the employee's retirement date but who will not be eligible on that  
27 date for Medicare coverage as prescribed by 42 U.S.C. 1395 et  
28 seq.; and

- 29 (3) who:
  - 30 (A) for an employee who retires before January 1, 2007, will
  - 31 have completed:
    - 32 (i) twenty (20) years of creditable employment with a public
    - 33 employer on or before the employee's retirement date, ten
    - 34 (10) years of which shall have been completed immediately
    - 35 preceding the retirement; and
    - 36 (ii) at least fifteen (15) years of participation in the
    - 37 retirement plan of which the employee is a member on or
    - 38 before the employee's retirement date; or

1 (B) for an employee who retires after December 31, 2006, will  
 2 have completed fifteen (15) years of creditable employment  
 3 with a public employer on or before the employee's retirement  
 4 date, ten (10) years of which shall have been completed  
 5 immediately preceding the retirement.

6 (c) The state shall provide a group health insurance program to each  
 7 retired employee:

- 8 (1) who is a retired judge;
- 9 (2) whose retirement date is after June 30, 1990;
- 10 (3) who is at least sixty-two (62) years of age;
- 11 (4) who is not eligible for Medicare coverage as prescribed by 42
- 12 U.S.C. 1395 et seq.; and
- 13 (5) who has at least eight (8) years of service credit as a
- 14 participant in the Indiana judges' retirement fund, with at least
- 15 eight (8) years of that service credit completed immediately
- 16 preceding the judge's retirement.

17 (d) The state shall provide a group health insurance program to each  
 18 retired employee:

- 19 (1) who is a retired participant under the prosecuting attorneys
- 20 retirement fund;
- 21 (2) whose retirement date is after January 1, 1990;
- 22 (3) who is at least sixty-two (62) years of age;
- 23 (4) who is not eligible for Medicare coverage as prescribed by 42
- 24 U.S.C. 1395 et seq.; and
- 25 (5) who has at least ten (10) years of service credit as a participant
- 26 in the prosecuting attorneys retirement fund, with at least ten (10)
- 27 years of that service credit completed immediately preceding the
- 28 participant's retirement.

29 (e) The state shall make available a group health insurance program  
 30 to each former member of the general assembly or surviving spouse of  
 31 each former member, if the former member:

- 32 (1) is no longer a member of the general assembly;
- 33 (2) is not eligible for Medicare coverage as prescribed by 42
- 34 U.S.C. 1395 et seq. or, in the case of a surviving spouse, the
- 35 surviving spouse is not eligible for Medicare coverage as
- 36 prescribed by 42 U.S.C. 1395 et seq.; and
- 37 (3) has at least ten (10) years of service credit as a member in the
- 38 general assembly.

1 A former member or surviving spouse of a former member who obtains  
 2 insurance under this section is responsible for paying both the  
 3 employer and the employee share of the cost of the coverage.

4 (f) The group health insurance program required under subsections  
 5 (b) through (e) and subsection (k) must be equal to that offered active  
 6 employees. The retired employee may participate in the group health  
 7 insurance program if the retired employee pays an amount equal to the  
 8 employer's and the employee's premium for the group health insurance  
 9 for an active employee and if the retired employee within ninety (90)  
 10 days after the employee's retirement date files a written request for  
 11 insurance coverage with the employer. Except as provided in  
 12 subsection (l), the employer may elect to pay any part of the retired  
 13 employee's premium with respect to insurance coverage under this  
 14 chapter.

15 (g) Except as provided in subsection (j), a retired employee's  
 16 eligibility to continue insurance under this section ends when the  
 17 employee becomes eligible for Medicare coverage as prescribed by 42  
 18 U.S.C. 1395 et seq., or when the employer terminates the health  
 19 insurance program. A retired employee who is eligible for insurance  
 20 coverage under this section may elect to have the employee's spouse  
 21 covered under the health insurance program at the time the employee  
 22 retires. If a retired employee's spouse pays the amount the retired  
 23 employee would have been required to pay for coverage selected by the  
 24 spouse, the spouse's subsequent eligibility to continue insurance under  
 25 this section is not affected by the death of the retired employee. The  
 26 surviving spouse's eligibility ends on the earliest of the following:

- 27 (1) When the spouse becomes eligible for Medicare coverage as
- 28 prescribed by 42 U.S.C. 1395 et seq.
- 29 (2) When the employer terminates the health insurance program.
- 30 (3) Two (2) years after the date of the employee's death.
- 31 (4) The date of the spouse's remarriage.

32 (h) This subsection does not apply to an employee who is entitled  
 33 to group insurance coverage under IC 20-28-10-2(b). An employee  
 34 who is on leave without pay is entitled to participate for ninety (90)  
 35 days in any health insurance program maintained by the employer for  
 36 active employees if the employee pays an amount equal to the total of  
 37 the employer's and the employee's premiums for the insurance.

38 (i) An employer may provide group health insurance for retired

employees or their spouses not covered by this section and may provide group health insurance that contains provisions more favorable to retired employees and their spouses than required by this section. A public employer may provide group health insurance to an employee who is on leave without pay for a longer period than required by subsection (h).

(j) An employer may elect to permit former employees and their spouses, including surviving spouses, to continue to participate in a group health insurance program under this chapter after the former employee (who is otherwise qualified under this chapter to participate in a group insurance program) or spouse has become eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq. An employer who makes an election under this section may require a person who continues coverage under this subsection to participate in a retiree health benefit plan developed under section 8.3 of this chapter.

(k) The state shall provide a group health insurance program to each retired employee:

(1) who was employed as a teacher in a state institution under:

(A) IC 11-10-5;

(B) IC 12-24-3;

(C) IC 16-33-3;

(D) IC 16-33-4 **(before its repeal);**

(E) IC 20-21-2-1; ~~or~~

(F) IC 20-22-2-1; **or**

**(G) IC 20-22.5-2;**

(2) who is at least fifty-five (55) years of age on or before the employee's retirement date;

(3) who is not eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; and

(4) who:

(A) has at least fifteen (15) years of service credit as a participant in the retirement fund of which the employee is a member on or before the employee's retirement date; or

(B) completes at least ten (10) years of service credit as a participant in the retirement fund of which the employee is a member immediately before the employee's retirement.

(l) The president pro tempore of the senate and the speaker of the house of representatives may not elect to pay any part of the premium

for insurance coverage under this chapter for a former member of the general assembly or the spouse of a former member of the general assembly whose last day of service as a member of the general assembly is after July 31, 2007."

Page 128, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 67. IC 5-13-12-12, IS ADDED BY TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12. (a) As used in this section, "authority" refers to the Indiana finance authority created by IC 4-4-11.**

**(b) In addition to the board's other powers under this chapter, the board, upon a written finding by the authority as described in subsection (c), may provide:**

**(1) a loan payment guarantee or direct loan to or for the benefit of a supplier, contractor, or subcontractor for a redevelopment project described in subsection (c); and**

**(2) a direct loan to a county having a population of more than sixteen thousand (16,000) but less than sixteen thousand seven hundred (16,700) to fund an economic development project under IC 36-7-14 described in IC 5-28-30-17.5 or to refund obligations issued to fund such an economic development project.**

**(c) The authority may make a written finding that the guarantee of a particular loan or a direct loan to or for the benefit of a supplier, contractor, or subcontractor and to a county having a population of more than sixteen thousand (16,000) but less than sixteen thousand seven hundred (16,700) for a redevelopment project in the county for which:**

**(1) bankruptcy was declared with respect to the project before January 1, 2009;**

**(2) the estimated value of the project or operation before bankruptcy was declared was at least five hundred million dollars (\$500,000,000);**

**(3) the estimated number of employees upon completion of the project or operation was expected to be at least one thousand two hundred (1,200) persons; and**

**(4) the proposed borrower or lessee cannot obtain the loan**

1           guarantee or direct loan upon reasonable terms;  
2       would tend to accomplish the purposes of this section, including the  
3       creation or retention of employment in Indiana through the  
4       guarantee of a loan or the making of a direct loan.

5           (d) Loan guarantees or direct loans made under this section are  
6       subject to the following conditions:

7           (1) The principal amount of all loan guarantees and direct  
8       loans may not exceed:

9           (A) a combined total of forty-eight million dollars  
10          (\$48,000,000) for all suppliers, contractors, or  
11          subcontractors;

12          (B) nine million eight hundred thousand dollars  
13          (\$9,800,000) to a particular supplier, contractor, or  
14          subcontractor; and

15          (C) four million two hundred thousand dollars (\$4,200,000)  
16          to a county having a population of more than sixteen  
17          thousand (16,000) but less than sixteen thousand seven  
18          hundred (16,700).

19          (2) With respect to any loan guarantee or direct loan made  
20          under this section, an agreement with the board must contain  
21          the following terms:

22               (A) A requirement that the proceeds under a loan being  
23               guaranteed or direct loan proceeds be used for specified  
24               purposes consistent with and in furtherance of the  
25               purposes of the corporation under this section.

26               (B) The term of the guarantee or loan, which may not be  
27               later than three (3) years from the date of the loan.

28               (C) The repayment schedule for a direct loan.

29               (D) The interest rate or rates of the direct loan, which may  
30               include variations in the rate, but which may not be less  
31               than the amount necessary to cover all expenses of the  
32               board in making the loan.

33               (E) Any other terms and provisions that the board or the  
34               authority requires.

35          (3) An agreement under this section may also contain a  
36          requirement that the loan be insured directly or indirectly by  
37          a loan insurer or be guaranteed by a loan guarantor, and a  
38          requirement of any other type or types of security or



1 collateral that the authority and board consider reasonable or  
2 necessary.

3 (4) A loan guarantee or a direct loan made under this section  
4 may be sold by the board, and the board may permit other  
5 lenders to participate in a loan made under this section, at the  
6 time or times and upon the terms and conditions that the  
7 board considers reasonable or necessary. A loan sold or in  
8 which other lenders participate may be guaranteed by the  
9 board, upon terms and conditions established by the board.

10 (5) The loan guarantee or direct loan by the board for  
11 depositories must be recommended by the authority upon the  
12 authority's determination and certification to the board for  
13 depositories:

14 (A) that the loan guarantee or direct loan will be for a  
15 supplier, contractor, or subcontractor or the county for a  
16 redevelopment project described in this section; and

17 (B) that the loan guarantee or direct loan is necessary for  
18 a redevelopment project described in this section to be  
19 eventually completed.

20 (6) Banks and financial institutions designated as eligible to  
21 receive public funds by the board for depositories shall be  
22 given a preference to provide the loan or other form of  
23 commercial financing to be guaranteed under this section, if  
24 such banks or financial institutions can provide terms and  
25 conditions for the loan that are substantially similar to and no  
26 more costly than the terms and conditions available to a  
27 leading Indiana business from other banks or commercial  
28 lending institutions.

29 (7) The board shall determine the guarantee premium to be  
30 received by the public deposit insurance fund for a loan  
31 guarantee. The guarantee premium shall be determined at the  
32 market rate then in effect for guarantees, mortgage insurance  
33 rates, or letters of credit used for similar purposes.

34 (e) Members of the board for depositories and any officers or  
35 employees of the board for depositories are not subject to personal  
36 liability or accountability for or by reason of a loan guarantee  
37 made under this section.

38 (f) This section constitutes all the authority required for the

board for depositories to make a loan guarantee under this section. This section is in addition and not in limitation of the board's other powers under this chapter.

(g) Any claim, loss, or debt arising out of any joint guarantee under this section is the obligation of the board for depositories or the authority, payable out of the public deposit insurance fund or a fund administered by the authority, as special funds only and as provided in this section, and does not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state. The document evidencing any guarantee must have on its face the words, "The obligations created by this guarantee (or other document as appropriate) do not constitute a debt, liability, or obligation of the state or a pledge of the faith and credit of the state, but are obligations of the Board for Depositories or the Indiana Finance Authority and are payable solely out of the funds provided therefor, as special funds, and neither the faith and credit nor the taxing power of the state is pledged to the payment of any obligation hereunder."

(f) This section expires December 31, 2015."

Page 128, delete lines 22 through 35, begin a new paragraph and insert:

"SECTION 67. IC 5-22-1-2, AS AMENDED BY P.L.217-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Except as provided in this article, this article does not apply to the following:

- (1) The commission for higher education.
- (2) A state educational institution. However, IC 5-22-5-9 and IC 5-22-15 apply to a state educational institution.
- (3) Military officers and military and armory boards of the state.
- (4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.
- (5) A local hospital authority under IC 5-1-4.
- (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- (7) Hospitals established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- (8) A library board under IC 36-12-3-16(b).
- (9) A local housing authority under IC 36-7-18.

(10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(11) A person paying for a purchase or lease with funds other than public funds.

(12) A person that has entered into an agreement with a governmental body under IC 5-23.

(13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.

(14) The department of financial institutions established by IC 28-11-1-1.

**(15) The commissioner of the department of insurance in retaining an examiner for purposes of IC 27-1-3.1-9.**

SECTION 69. IC 5-22-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies only to the following governmental bodies:

(1) A state institution (as defined in IC 12-7-2-184).

(2) A penal facility operated by the department of correction.

(3) ~~An institution operated by the state department of health~~ **The Indiana Soldiers' and Sailors' Children's Home** under ~~IC 16-19-6~~ **IC 20-22.5.**

(4) A political subdivision.

SECTION 70. IC 5-28-15-10, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2008 (RETROACTIVE)]: Sec. 10. (a) **Subject to subsection (b)**, an enterprise zone expires ten (10) years after the day on which it is designated by the board.

**(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (c) and (d). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the board:**

**(1) before August 1, 2009, in the case of an enterprise zone**

1           that expired after November 30, 2008, or is scheduled to  
2           expire before September 1, 2009; or

3           (2) at least thirty (30) days before the expiration date of the  
4           enterprise zone, in the case of an enterprise zone scheduled to  
5           expire after August 31, 2009.

6           **If an enterprise zone is renewed under this subsection after having**  
7           **been renewed under subsection (d), the enterprise zone may not be**  
8           **renewed after the expiration of this final five (5) year period.**

9           (c) The two (2) year period immediately before the day on which the  
10          enterprise zone expires is the phaseout period. During the phaseout  
11          period, the board may review the success of the enterprise zone based  
12          on the following criteria and may, with the consent of the budget  
13          committee, renew the enterprise zone, including all provisions of this  
14          chapter, for five (5) years:

15               (1) Increases in capital investment in the zone.

16               (2) Retention of jobs and creation of jobs in the zone.

17               (3) Increases in employment opportunities for residents of the  
18          zone.

19          ~~(b)~~ (d) If an enterprise zone is renewed under subsection (a), the two  
20          (2) year period immediately before the day on which the enterprise  
21          zone expires is another phaseout period. During the phaseout period,  
22          the board may review the success of the enterprise zone based on the  
23          criteria set forth in subsection (a) and, with the consent of the budget  
24          committee, may again renew the enterprise zone, including all  
25          provisions of this chapter, for a final period of five (5) years. The zone  
26          may not be renewed after the expiration of this final five (5) year  
27          period."

28          Page 130, delete lines 10 through 48.

29          Page 131, delete lines 1 through 7.

30          Page 131, delete lines 17 through 28 and insert:

31          "SECTION 74. IC 6-1.1-1-8.4, AS ADDED BY P.L.146-2008,  
32          SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33          JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8.4. (a) "Inventory"  
34          means:

35               (1) materials held for processing or for use in production;

36               (2) finished or partially finished goods of a manufacturer or  
37          processor; and

38               (3) property held for sale in the ordinary course of trade or

- 1 business.
- 2 **(b) The term includes:**
- 3 **(1) items that qualify as inventory under 50 IAC 4.2-5-1 (as**
- 4 **effective December 31, 2008); and**
- 5 **(2) subject to subsection (c), a mobile home that:**
- 6 **(A) does not qualify as real property;**
- 7 **(B) is located in a mobile home community;**
- 8 **(C) is unoccupied; and**
- 9 **(D) is:**
- 10 **(i) owned and held for sale by the owner of the mobile**
- 11 **home community; or**
- 12 **(ii) owned by a person other than the owner of the**
- 13 **mobile home community and held for sale by the owner**
- 14 **of the mobile home.**
- 15 **(c) Subsection (b)(2) applies regardless of whether the mobile**
- 16 **home that is held for sale is new or was previously owned."**
- 17 Page 194, between lines 1 and 2, begin a new paragraph and insert:
- 18 "SECTION 148. IC 6-1.1-21.3 IS ADDED TO THE INDIANA
- 19 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
- 20 [EFFECTIVE UPON PASSAGE]:
- 21 **Chapter 21.3. Rainy Day Fund Loans to Eligible Taxing Units**
- 22 **Sec. 1. As used in this chapter, "board" refers to the state board**
- 23 **of finance.**
- 24 **Sec. 2. As used in this chapter, "eligible taxing unit" refers to a**
- 25 **taxing unit located in LaPorte County.**
- 26 **Sec. 3. The general assembly finds that:**
- 27 **(1) distributions of property tax revenue for 2008 and 2009 to**
- 28 **the taxing units in LaPorte County either:**
- 29 **(A) have not been made; or**
- 30 **(B) have been delayed by more than sixty (60) days after**
- 31 **either due date specified in IC 6-1.1-22-9;**
- 32 **as a result of a state ordered reassessment of property in the**
- 33 **county; and**
- 34 **(2) the taxing units are having severe difficulty carrying out**
- 35 **the governmental functions committed to them by law as a**
- 36 **result of the delay in the distribution of tax revenue to the**
- 37 **taxing units.**
- 38 **Sec. 4. An eligible taxing unit, with the approval of the fiscal**

body of the eligible taxing unit, may apply to the board for an interest free loan from the counter-cyclical revenue and economic stabilization fund.

Sec. 5. Subject to this chapter, the board, after review by the budget committee, shall determine the terms of any loan made under this chapter.

Sec. 6. Interest may be imposed on the loan at a rate determined by the board.

Sec. 7. The total amount of all loans under this chapter for all calendar years may not exceed the least of the following:

(1) The amount requested by the eligible taxing units.

(2) The amount of revenue that the board determines has not been collected from property taxes in 2008 and 2009 on the date of the loan.

(3) Thirty-six million dollars (\$36,000,000).

Sec. 8. An eligible taxing unit receiving a loan under this chapter must repay the loan within seventy-two (72) months after the date on which the loan is made. No penalty may be imposed for repaying a loan before the term of the loan.

Sec. 9. The board may disburse in installments the proceeds of a loan made under this chapter.

Sec. 10. An eligible taxing unit may repay a loan made under this chapter from any sources of revenue.

Sec. 11. The obligation to repay a loan made under this chapter is not a basis for an eligible taxing unit to obtain an excessive tax levy under IC 6-1.1-19.

Sec. 12. Whenever the board receives a payment on a loan made under this chapter, the board shall deposit the amount paid in the counter-cyclical revenue and economic stabilization fund.

Sec. 13. The proceeds of a loan received by an eligible taxing unit under this chapter are not considered to be part of the ad valorem property tax levy actually collected by the eligible taxing unit for taxes first due and payable during a particular calendar year for the purpose of calculating levy excess.

Sec. 14. The notes and the authorization, issuance, sale, and delivery of the notes are not subject to any general statute concerning obligations issued by the local governmental entity borrower. This chapter contains full and complete authority for

1 the making of the loan, the authorization, issuance, sale, and  
 2 delivery of the notes, and the repayment of the loan by the  
 3 borrower, and no law, procedure, proceedings, publications,  
 4 notices, consents, approvals, orders, or acts by any officer,  
 5 department, agency, or instrument of the state or of any political  
 6 subdivision is required to make the loan, issue the notes, or repay  
 7 the loan except as prescribed in this chapter.

8 Sec. 15. Upon the failure of an eligible taxing unit to make any  
 9 of the eligible taxing unit's payments on a loan granted under this  
 10 chapter when due, the treasurer of state, upon being notified of the  
 11 failure by the board, may pay the unpaid amount that is due from  
 12 the funds held by the state that would be otherwise distributable to  
 13 the taxing unit.

14 SECTION 149. IC 6-1.1-21.9-1, AS ADDED BY P.L.114-2006,  
 15 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 UPON PASSAGE]: Sec. 1. (a) As used in this chapter, "board" refers  
 17 to the state board of finance.

18 (b) As used in this chapter, "qualified taxing unit" means a taxing  
 19 unit:

20 (1) in which a qualifying taxpayer has tangible property subject  
 21 to taxation; and

22 (2) that has experienced or is expected to experience a significant  
 23 revenue shortfall as a result of a default or an expected default  
 24 described in subsection (c)(3).

25 (c) As used in this chapter, "qualifying taxpayer" means a taxpayer  
 26 that:

27 (1) manufactures microelectronics **or motor vehicles** as part of  
 28 its business;

29 (2) has filed a petition to reorganize **or another form of petition**  
 30 under the federal bankruptcy code; and

31 (3) has defaulted, or has notified the county fiscal body of the  
 32 county in which the taxpayer is subject to property taxes that the  
 33 taxpayer will default, on all or part of one (1) or more of its  
 34 property tax payments.

35 SECTION 150. IC 6-1.1-21.9-3, AS AMENDED BY P.L.1-2009,  
 36 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 UPON PASSAGE]: Sec. 3. (a) The board, not later than December 31,  
 38 ~~2009~~, **2010**, and after review by the budget committee, shall determine

the terms of ~~a loan~~ **all loans** made under this chapter, subject to the following:

- (1) The board may not charge interest on the loan.
- (2) The loan must be repaid not later than ten (10) years after the date on which the loan was made.
- (3) The terms of the loan must allow for prepayment of the loan without penalty.
- (4) The maximum amount of the loan that a qualifying taxing unit may receive with respect to a default described in section 1(c)(3) of this chapter on one (1) or more payments of property taxes first due and payable in a calendar year is the amount, as determined by the board, of revenue shortfall for the qualifying taxing unit that results from the default for that calendar year.
- (5) The total amount of all loans under this chapter for all calendar years may not exceed:

- (A) thirteen million dollars (\$13,000,000) related to a default of a taxpayer that manufactures microelectronics as part of its business but does not manufacture motor vehicles; and**
- (B) thirty-four million dollars (\$34,000,000) related to a default of a taxpayer that manufactures motor vehicles as part of its business.**

(b) The board may disburse in installments the proceeds of a loan made under this chapter.

(c) A qualified taxing unit may repay a loan made under this chapter from any of the following:

- (1) Property tax revenues of the qualified taxing unit that are subject to the levy limitations imposed by IC 6-1.1-18.5 or (before January 1, 2009) IC 6-1.1-19.
- (2) Property tax revenues of the qualified taxing unit that are not subject to levy limitations as provided in IC 6-1.1-18.5-21 or (before January 1, 2009) IC 6-1.1-19-13.
- (3) The qualified taxing unit's debt service fund.
- (4) Any other source of revenues (other than property taxes) that is legally available to the qualified taxing unit.

The payment of any installment on a loan made under this chapter constitutes a first charge against the property tax revenues described in subdivision (1) or (2) that are collected by the qualified taxing unit



1 during the calendar year the installment is due and payable.

2 (d) The obligation to repay a loan made under this chapter is not a  
3 basis for the qualified taxing unit to obtain an excessive tax levy under  
4 IC 6-1.1-18.5 or (before January 1, 2009) IC 6-1.1-19.

5 (e) Whenever the board receives a payment on a loan made under  
6 this chapter, the board shall deposit the amount paid in the  
7 counter-cyclical revenue and economic stabilization fund.".

8 Page 209, between lines 34 and 35, begin a new paragraph and  
9 insert:

10 "SECTION 172. IC 6-2.5-5-16.5, AS AMENDED BY P.L.32-2007,  
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2009]: Sec. 16.5. (a) The following definitions apply  
13 throughout this section:

14 (1) "Home energy" means electricity, oil, gas, coal, propane, or  
15 any other fuel for use as the principal source of heating or cooling  
16 in residential dwellings.

17 (2) "Home energy assistance" means programs administered by  
18 the state to supply home energy through the Low Income Home  
19 Energy Assistance Block Grant under 42 U.S.C. 8261 et seq.

20 (b) Transactions involving home energy are exempt from the state  
21 gross retail tax if the person acquiring the home energy acquires it ~~after~~  
22 ~~June 30, 2006 and before July 1, 2009~~, through home energy  
23 assistance.".

24 Page 210, between lines 18 and 19, begin a new paragraph and  
25 insert:

26 "SECTION 174. IC 6-2.5-5-39, AS AMENDED BY P.L.211-2007,  
27 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2009]: Sec. 39. (a) As used in this section, "cargo trailer"  
29 means a vehicle:

30 (1) without motive power;

31 (2) designed for carrying property;

32 (3) designed for being drawn by a motor vehicle; and

33 (4) having a gross vehicle weight rating of at least two thousand  
34 two hundred (2,200) pounds.

35 (b) As used in this section, "recreational vehicle" means a vehicle  
36 with or without motive power equipped exclusively for living quarters  
37 for persons traveling upon the highways. The term includes a travel  
38 trailer, a motor home, a truck camper with a floor and facilities

enabling it to be used as a dwelling, and a fifth wheel trailer.

(c) **This subsection applies to a transaction that is not subject to the exemption provided by subsection (f).** A transaction involving a cargo trailer or a recreational vehicle is exempt from the state gross retail tax if:

- (1) the purchaser is a nonresident;
- (2) upon receiving delivery of the cargo trailer or recreational vehicle, the person transports it within thirty (30) days to a destination outside Indiana;
- (3) the cargo trailer or recreational vehicle will be titled or registered for use in another state or country;
- (4) the cargo trailer or recreational vehicle will not be titled or registered for use in Indiana; **and**
- (5) the cargo trailer or recreational vehicle will be titled or registered in a state or country that provides an exemption from sales, use, or similar taxes imposed on a cargo trailer or recreational vehicle that is purchased in that state or country by an Indiana resident and will be titled or registered in Indiana.**

~~A transaction involving a cargo trailer or recreational vehicle that does not meet the requirements of subdivision (5) is not exempt from the state gross retail tax.~~

(d) **This subsection applies only to a transaction that is subject to the exemption provided by subsection (c).** A purchaser must claim an exemption under ~~this section~~ **subsection (c)** by submitting to the retail merchant an affidavit stating the purchaser's intent to:

- (1) transport the cargo trailer or recreational vehicle to a destination outside Indiana within thirty (30) days after delivery; and
- (2) title or register the cargo trailer or recreational vehicle for use in another state or country.

The department shall prescribe the form of the affidavit, which must include an affirmation by the purchaser under the penalties for perjury that the information contained in the affidavit is true. The affidavit must identify the state or country in which the cargo trailer or recreational vehicle will be titled or registered.

~~(e) The department shall provide the information necessary to~~

determine a purchaser's eligibility for an exemption claimed under this section to retail merchants in the business of selling cargo trailers or recreational vehicles.

(e) The gross retail income derived from the sale of a recreational vehicle is exempt from the state gross retail tax if each of the following requirements are satisfied:

(1) The recreational vehicle is new and has not been titled or registered for use in Indiana or any other state or country.

(2) The recreational vehicle was built in Indiana.

(3) The seller of the recreational vehicle is an Indiana licensed dealer of recreational vehicles.

(4) The purchaser of the recreational vehicle is an Indiana resident.

(5) The purchaser of the recreational vehicle signs a purchase agreement and makes a down payment at a recreational vehicle show that is:

(A) hosted by a nonprofit organization organized under the laws of Indiana; and

(B) open to the public for not more than five (5) consecutive days."

Page 229, delete lines 3 through 12, begin a new paragraph and insert:

"SECTION 194. IC 6-3.1-30-2, AS AMENDED BY P.L.137-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "eligible business" means a business that:

(1) is engaged in either interstate or intrastate commerce;

(2) maintains a corporate headquarters at a location outside Indiana;

(3) has not previously maintained a corporate headquarters at a location in Indiana;

(4) had annual worldwide revenues of at least:

(A) ~~one hundred ten million dollars (\$100,000,000)~~ **(\$10,000,000) in the case of a business that relocates to Elkhart County before July 1, 2010; or**

(B) **twenty million dollars (\$20,000,000) in the case of a business that is not described in clause (A);**

for the taxable year immediately preceding the business's

1 application for a tax credit under section 12 of this chapter; and  
 2 (5) commits contractually to relocating its corporate headquarters  
 3 to Indiana.".

4 Page 285, between lines 34 and 35, begin a new paragraph and  
 5 insert:

6 "SECTION 260. IC 8-1-2.3-2 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The  
 8 definitions in this section apply throughout this chapter.

9 (b) "Electricity supplier" means a public utility, a local district rural  
 10 electric membership corporation, or a municipally owned electric  
 11 utility which furnishes retail electric service to the public. **A**  
 12 **municipally owned electric utility that enters into a lease**  
 13 **agreement with another electricity supplier under which the other**  
 14 **electricity supplier furnishes retail electric service to customers of**  
 15 **the municipally owned electric utility is considered to furnish retail**  
 16 **electric service to the public for purposes of this subsection.**

17 (c) "Retail electric service" means electric service furnished to a  
 18 customer for ultimate consumption, but does not include wholesale  
 19 electric service furnished by an electricity supplier to another  
 20 electricity supplier for resale.

21 (d) "Existing electric distribution line" means an electric conductor  
 22 which on January 1, 1979, was being used for the distribution or  
 23 delivery of retail electric service.

24 (e) "Assigned service area" means the designated geographic area  
 25 within the boundaries of which an electricity supplier is authorized to  
 26 furnish all retail electric service, as provided in this chapter.

27 (f) "Municipality" means a city or town.

28 (g) "Existing municipal limits" means the corporate boundaries of  
 29 any municipality as such boundaries existed on January 1, 1979.

30 SECTION 261. IC 8-1-2.3-3 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Assigned  
 32 Service Areas. (a) Unless otherwise agreed upon between adjacent  
 33 electricity suppliers, **and subject to section 6(4) of this chapter**, all  
 34 areas inside existing municipal limits are hereby assigned to the  
 35 electricity supplier serving a plurality of the electric meters within the  
 36 municipality on January 1, 1979.

37 (b) Where two (2) or more electricity suppliers are rendering retail  
 38 electric service within existing municipal limits, those suppliers shall

1 take one (1) or more of the following actions to assure that only one (1)  
 2 electricity supplier shall serve within the existing municipal limits:

3 (1) The electricity supplier serving a plurality of electric meters  
 4 within the municipality on January 1, 1979, may purchase the  
 5 electric utility property of any other electricity supplier which is  
 6 devoted to retail electric service and is located within the existing  
 7 municipal limits, at its then reproduction cost new depreciated  
 8 value plus severance damages.

9 (2) At the option of the electricity supplier serving a plurality of  
 10 electric meters within the municipality on January 1, 1979, and  
 11 subject to commission approval, the electricity suppliers may  
 12 exchange all or part of the electric utility property located outside  
 13 of the existing municipal limits for the electric utility property  
 14 located within the existing municipal limits.

15 (3) If the affected electricity suppliers do not agree upon a  
 16 purchase or exchange of the electric utility property before  
 17 September 1, 1980, the commission shall determine the  
 18 appropriate purchase price for the electric utility property  
 19 according to ~~subsection (b)(1) of this section~~: **subdivision (1)**.

20 (c) On or before July 1, 1981, each electricity supplier in each  
 21 county shall exchange with all other electricity suppliers in the county  
 22 a map or maps showing all of its existing electric distribution lines in  
 23 the county which are relevant to the assignment of service areas outside  
 24 existing municipal limits and any other information it considers useful  
 25 in determining the boundaries of an assigned service area.

26 (d) Until otherwise agreed upon between electricity suppliers or  
 27 ordered by the commission under ~~section 3(g) of this chapter~~;  
 28 **subsection (g)**, the boundaries of the assigned service area for each  
 29 adjacent electricity supplier outside existing municipal limits shall be  
 30 set as a line equidistant from its existing electric distribution lines and  
 31 the nearest existing electric distribution lines of any other electricity  
 32 supplier; the resulting assigned service area outside existing municipal  
 33 limits of an electricity supplier will be that area which is closer to the  
 34 existing electric distribution lines of a supplier than to the existing  
 35 electric distribution lines of any other electricity supplier.

36 (e) Each electricity supplier shall negotiate with all adjacent  
 37 electricity suppliers as soon as practicable in an effort to agree on the  
 38 boundaries of the service areas to be assigned.

1 (f) Maps depicting the boundaries of such proposed service area  
2 assignments shall be prepared by each electricity supplier for each  
3 county in which the electricity supplier provides electric retail service,  
4 and shall be filed, together with a petition requesting approval and  
5 assignment of such service areas with the commission on or before July  
6 1, 1982, or on such other date as the commission may determine, but  
7 in any event on or before March 1, 1983. Thereafter, the commission  
8 shall hold a public hearing regarding the proposed service areas, after  
9 publication of notice of the hearing at least ten (10) days before the  
10 hearing in the county or counties in which such proposed service areas  
11 are located. If the commission finds that the proposed service areas  
12 comply with this chapter, it shall issue an order within twelve (12)  
13 months of the filing of the petition and related maps, approving and  
14 assigning the service areas as designated on the prepared maps.

15 (g) If two (2) or more adjacent electricity suppliers cannot agree  
16 upon the boundary line or lines between their respective proposed  
17 service areas on or before July 1, 1982, or such other date as the  
18 commission may determine, but in any event on or before March 1,  
19 1983, the commission on its own motion or upon petition of one (1) of  
20 the electricity suppliers shall hold a public hearing regarding the  
21 location of the boundary line or lines, after publication of notice of the  
22 hearing at least ten (10) days before the hearing in the county or  
23 counties in which the boundary line or lines are located. The  
24 commission shall determine the boundary line or lines based as nearly  
25 as practicable upon a line equidistant between the existing electric  
26 distribution lines of the adjacent electricity suppliers, consistent with  
27 good utility practice and public convenience and necessity. The  
28 commission shall issue an order determining the boundary line or lines  
29 and assigning the service areas, and shall direct the parties to file with  
30 the commission maps showing such assigned service areas. If the  
31 commission determines that the maps comply with its order, it shall  
32 issue a supplemental order approving the assigned service areas as  
33 designated on the maps.

34 (h) Once established according to this section, the boundaries of  
35 assigned service areas may not be changed except as provided in  
36 section 6 of this chapter.

37 SECTION 262. IC 8-1-2.3-6 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. The boundaries

1 of the assigned service areas of electricity suppliers may not be  
2 changed except under any one (1) of the following circumstances:

3 (1) If a municipality which owns and operates an electric utility  
4 system furnishing retail electric service to the public annexes an  
5 area beyond the assigned service area of its municipally owned  
6 electric utility, the municipally owned electric utility may petition  
7 the commission to change the assigned service area of the  
8 municipally owned electric utility to include the annexed area,  
9 according to the following procedures:

10 (A) The municipally owned electric utility shall file its petition  
11 with the commission not later than sixty (60) days after the  
12 annexation becomes effective. The petition must include a  
13 certified copy of the annexation ordinance, which serves as  
14 conclusive evidence that the area has been lawfully annexed  
15 and is part of the municipality. After the filing of a petition  
16 under this subdivision, the commission shall promptly enter an  
17 order changing the assigned service area facet maps of the  
18 municipally owned electric utility and incumbent electricity  
19 suppliers to include the annexed area within the assigned  
20 service area of the municipally owned electric utility and  
21 giving the right to serve and immediate possession to the  
22 municipally owned electric utility. The commission order is  
23 enforceable in court pending an appeal of that order. An  
24 appellant from a court order enforcing a commission order  
25 under this subdivision is not entitled to a stay of the court  
26 order pending appeal. However, this subdivision does not  
27 apply to incorporations, consolidations, mergers, or  
28 annexations that are under IC 36-4-3-4(a)(3), IC 36-4-3-4(b),  
29 IC 36-4-3-4(h), or IC 36-4-3-4.1 or that are not contiguous  
30 under IC 36-4-3-13(b) or IC 36-4-3-13(c).

31 (B) Not later than thirty (30) days after filing a petition under  
32 this subdivision, the municipally owned electric utility shall  
33 determine for each affected incumbent electricity supplier and  
34 pay to that supplier an amount not less than the value of all the  
35 electric utility property of the incumbent electricity supplier  
36 that is devoted to furnishing retail electric service within the  
37 additional assigned service area at its then reproduction cost  
38 new depreciated value. In addition, the municipally owned

1 electric utility shall pay the incumbent electricity supplier  
2 severance damages in an amount equal to:

3 (i) the value of the incumbent electricity supplier's  
4 distribution and substation facilities dedicated to and located  
5 within the annexed area or relocated by reason of the  
6 annexation or an amount equal to two and one-half (2 1/2)  
7 times the incumbent electricity supplier's gross revenues  
8 from electricity sales in the annexed area during the twelve  
9 (12) month period immediately preceding the date the  
10 annexation ordinance became effective, whichever is  
11 greater; plus

12 (ii) if additional permanent service locations or service  
13 accounts are established in the annexed area during the five  
14 (5) year period beginning on the effective date of the  
15 annexation ordinance, one-tenth of one cent (\$0.001) for  
16 each kilowatt hour of electricity sold to each of those  
17 permanent service locations or service accounts for sales  
18 that occur during a five (5) year period beginning on the  
19 date each service location or service account is established,  
20 up to a maximum of one hundred seventy thousand  
21 (170,000) kilowatt hours per service account or service  
22 location for each monthly billing period.

23 However, the municipally owned electric utility is not required  
24 to pay severance damages under item (ii) if, at the time each  
25 annual payment otherwise would accrue, it is purchasing all of  
26 its requirements for electric power and energy, except for  
27 generation directly provided by the municipally owned electric  
28 utility or by a customer, from the incumbent electricity  
29 supplier. Severance damages must be paid not later than thirty  
30 (30) days after the end of each calendar year in which  
31 severance damages have accrued. The municipally owned  
32 electric utility and incumbent electricity suppliers shall  
33 cooperate to calculate the amount of any severance damages  
34 and shall furnish to each other all information and records  
35 reasonably necessary for the determination and verification of  
36 severance damages. If the municipally owned electric utility  
37 and incumbent electricity suppliers cannot agree on the  
38 amount of severance damages the municipally owned electric



1 utility is to pay, the commission shall determine the amount  
 2 and order payment in accordance with this clause. Not later  
 3 than twenty (20) days after making a payment, the municipally  
 4 owned electric utility shall certify to the commission and to  
 5 any affected incumbent electricity supplier that it has paid the  
 6 amounts required under this clause.

7 (C) If the municipally owned electric utility fails to make a  
 8 payment under clause (B), an affected incumbent electricity  
 9 supplier may, not later than sixty (60) days after the payment  
 10 is due and after giving the municipally owned electric utility  
 11 reasonable notice of and an opportunity to cure the defect, file  
 12 with the commission a petition alleging that a payment due  
 13 under clause (B) has not been made. If the commission finds  
 14 after notice and hearing that any payments owed to the  
 15 incumbent electricity supplier have not been timely and fully  
 16 paid, the commission shall order the municipally owned  
 17 electric utility to pay:

- 18 (i) the delinquent payments by a date determined by the
- 19 commission;
- 20 (ii) accrued interest at the rate set forth in IC 24-4.6-1-102;
- 21 and
- 22 (iii) the incumbent electricity supplier's costs of filing and
- 23 prosecuting a petition under this clause.

24 If the commission finds against the incumbent electricity  
 25 supplier, it shall order the incumbent electricity supplier to pay  
 26 the costs incurred by the municipally owned electric utility in  
 27 defending against the incumbent electricity supplier's petition.

28 (D) A certified copy of a final commission order that:

- 29 (i) determines and orders the payment of severance damages
- 30 under clause (B); or
- 31 (ii) orders the payment of delinquent payments, interest, and
- 32 costs under clause (C);

33 may be filed with the clerk of the circuit or superior court of  
 34 any county in which part or all of the annexed area is located.  
 35 A commission order that is filed in a court under this clause  
 36 may be enforced and executed in the same manner as if it were  
 37 a final judgment of that court.

38 (2) Upon mutual agreement of the affected electricity suppliers

1 and approval of the commission. If notice of a verified request for  
2 a change of boundary lines by mutual agreement under this  
3 subdivision is published in a newspaper of general circulation in  
4 every county in which the boundary lines are located and an  
5 affected electricity customer does not request a hearing within  
6 twenty (20) days of the last date of publication, the commission  
7 may approve the change without a hearing. The commission shall  
8 approve a boundary line change under this subdivision unless the  
9 commission finds, after a public hearing, that the change would  
10 cause:

11 (A) duplication of electric utility facilities;

12 (B) waste of materials or resources; or

13 (C) uneconomic, inefficient, or inadequate electric service to  
14 the public.

15 (3) In the case where a landowner owns a single tract of land that  
16 is intersected by the boundary lines of two (2) or more assigned  
17 service areas, and retail electric service can best be supplied by  
18 only one (1) electricity supplier, or in the case where a customer  
19 or customers are housed in a single structure or constitute a single  
20 governmental, industrial, or institutional operation, and the  
21 electricity suppliers involved are unable to agree which shall  
22 furnish the electric service, any of the electricity suppliers may  
23 submit the matter to the commission for its determination based  
24 upon public convenience and necessity. If, after notice and  
25 hearing, the commission determines that one (1) or more  
26 electricity suppliers are to supply the required retail electric  
27 service and the boundaries of an assigned service area are to be  
28 changed, the assigned service area maps of the electricity  
29 suppliers shall be changed to reflect the new boundaries.

30 **(4) By order of the commission upon the termination of a lease**  
31 **agreement between a municipally owned electric utility and**  
32 **a public utility. If, before January 1, 1979, a municipality that**  
33 **owns and operates an electric utility system furnishing retail**  
34 **electric service to the public enters into a lease agreement**  
35 **with a public utility under which the public utility furnishes**  
36 **retail electric service to customers of the municipally owned**  
37 **utility, and, after December 31, 1978, the municipality is**  
38 **located within the assigned service area of the public utility,**

the municipality or the public utility may petition the commission to change, upon the termination of the lease agreement, the assigned service area of the public utility to restore to the municipally owned utility the exclusive right to furnish retail electric service to the electric customers that are the subject of the lease agreement. The petition must include a map showing the boundaries of the area served by the municipally owned utility immediately before the execution of the lease agreement. Not more than ninety (90) days after receiving the petition, and following notice and hearing, the commission shall enter an order changing the assigned service area maps of the municipally owned utility and the public utility to reflect the new boundaries upon the termination of the lease agreement. Any compensation, including damages, for property or improvements that are located within the assigned service area established under this subdivision must be determined under the terms of the lease agreement between the municipally owned utility and the public utility."

Page 290, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 270. IC 8-23-8-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 10. (a) As used in this section, "designated highway" refers to the highway designated as a limited access facility under subsection (b).**

**(b) The department shall designate and do all acts necessary to establish the part of State Road 331 in St. Joseph County from the U.S. Highway 20 bypass to State Road 23 as a limited access facility. The designated highway shall be in operation as a limited access facility beginning not later than January 1, 2009.**

**(c) Neither the department nor any political subdivision may authorize any additional curb cuts or intersections after January 1, 2009, on the designated highway. The department shall limit intersections on the designated highway to the following locations:**

- (1) U.S. Highway 20 bypass.**
- (2) Dragoon Trail.**
- (3) Twelfth Street (also known as Harrison Road).**
- (4) Indiana 933 (also known as Lincoln Way).**
- (5) Jefferson Boulevard.**

1           **(6) McKinley Highway.**

2           **(7) Day Road.**

3           **(8) Cleveland Road.**

4           **(9) State Road 23."**

5           Page 293, between lines 17 and 18, begin a new paragraph and  
6           insert:

7           **"(g) The plan may not permit treatment limitations or financial**  
8           **requirements on the coverage of chiropractor office services if**  
9           **similar limitations or requirements are not imposed on the**  
10           **coverage of physician office services."**

11           Page 302, between lines 11 and 12, begin a new paragraph and  
12           insert:

13           "SECTION 300. IC 16-18-2-62 IS AMENDED TO READ AS  
14           FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 62. ~~(a) "Commission",~~  
15           ~~for purposes of IC 16-19-6, refers to the commission for special~~  
16           ~~institutions.~~

17           ~~(b)~~ **(a)** "Commission", for purposes of IC 16-31, refers to the  
18           Indiana emergency medical services commission.

19           ~~(c)~~ **(b)** "Commission", for purposes of IC 16-46-11.1, has the  
20           meaning set forth in IC 16-46-11.1-1.

21           SECTION 297. IC 16-42-19-11.5 IS ADDED TO THE INDIANA  
22           CODE AS A NEW SECTION TO READ AS FOLLOWS  
23           [EFFECTIVE JULY 1, 2009]: **Sec. 11.5. Beginning July 1, 2010, on**  
24           **the request of a patient who is blind (as defined in IC 12-7-2-21(2))**  
25           **or visually impaired (as defined in IC 12-7-2-198(a)), a pharmacist**  
26           **shall dispense a prescription for a legend drug with a label that:**

27           **(1) complies with the requirements under section 11(a)(1) of**  
28           **this chapter; and**

29           **(2) contains the label information on:**

30           **(A) a braille label that is affixed to the immediate container**  
31           **in which the drug is delivered; or**

32           **(B) a recorded audio device or an electronic tagging device**  
33           **that is permanently attached to the immediate container in**  
34           **which the drug is delivered.**

35           SECTION 303. IC 20-18-2-2.7 IS ADDED TO THE INDIANA  
36           CODE AS A NEW SECTION TO READ AS FOLLOWS  
37           [EFFECTIVE JULY 1, 2009]: **Sec. 2.7. "Children's home" means the**  
38           **Indiana Soldiers' and Sailors' Children's Home established by**

1 **IC 20-22.5-2-5."**

2 Page 305, between lines 12 and 13, begin a new paragraph and  
3 insert:

4 "SECTION 305. IC 20-22.5 IS ADDED TO THE INDIANA CODE  
5 AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY  
6 1, 2009]:

7 **ARTICLE 22.5. INDIANA SOLDIERS' AND SAILORS'**  
8 **CHILDREN'S HOME**

9 **Chapter 1. Administration**

10 **Sec. 1. The department shall do the following:**

- 11 (1) Administer the children's home.
- 12 (2) Recommend to the governor legislation that is needed to
- 13 implement the policies developed by the state superintendent.
- 14 (3) Review, revise, adopt, and submit to the budget agency
- 15 budget proposals for the children's home.
- 16 (4) Employ the personnel necessary to perform the duties
- 17 imposed upon the state superintendent by this chapter.
- 18 (5) Do any and all acts necessary, proper, or convenient to
- 19 carry out this chapter.

20 **Sec. 2. (a) Except as provided in subsection (b), the department**  
21 **has complete policy and administrative control and responsibility**  
22 **for the children's home.**

23 **(b) Notwithstanding any other statute or policy, the department**  
24 **or the superintendent of the children's home may not terminate, in**  
25 **whole or in part, services provided by the children's home to**  
26 **Indiana children or terminate other operations that exist at the**  
27 **children's home unless specifically authorized by a statute enacted**  
28 **by the general assembly. The department or the superintendent of**  
29 **the children's home shall maintain adequate staffing levels to**  
30 **provide the necessary services to the children residing at the**  
31 **children's home.**

32 **Sec. 3. (a) The children's home is under the administrative**  
33 **control of a superintendent who has the powers, duties, and**  
34 **qualifications provided by law or as may be otherwise prescribed**  
35 **or delegated by the state superintendent (including the authority**  
36 **to execute contracts) insofar as the powers, duties, and**  
37 **qualifications are not in conflict with this chapter.**

38 **(b) The superintendent of the children's home shall be appointed**

by the state superintendent. The superintendent of the children's home may be removed only by the state superintendent. The superintendent of the children's home is administratively responsible to the state superintendent.

(c) Except as provided in subsection (d), the superintendent of the children's home must meet all the following conditions:

(1) Be a teacher licensed by the state or have at least a baccalaureate degree from an accredited college or university in a field related to education or child growth and development.

(2) Have experience working with children.

(3) At the time of appointment, be a resident and citizen of Indiana.

(4) Have other qualifications as required by the state superintendent.

(d) When at least two (2) candidates meet the conditions listed in subsection (c), the state superintendent shall give preference to individuals who have been honorably discharged after service in the armed forces of the United States (as defined in IC 20-22.5-2-1) in appointing a candidate to the position of superintendent of the children's home.

Sec. 4. The superintendent of the children's home is entitled to receive a salary in an amount to be fixed by the state superintendent subject to the approval of the budget agency.

Sec. 5. (a) The superintendent of the children's home shall furnish an individual public bond in an amount determined by the department, payable to the state, and conditioned upon the faithful performance of the superintendent of the children's home's duties.

(b) A bond required under this section is subject to the approval of the insurance commissioner and shall be filed in the office of the secretary of state.

Sec. 6. The superintendent of the children's home, subject to the approval of the state superintendent:

(1) has charge and management of the children's home;

(2) shall direct the care, education, and maintenance of the children of the children's home; and

(3) is the chief appointing authority for all employees necessary to properly conduct and operate the children's

1           home.

2           **Sec. 7. (a) The state superintendent shall annually review the**  
 3           **salary schedules of the school corporation with the greatest current**  
 4           **ADM (as defined in IC 20-43-1-10) in the county in which the**  
 5           **children's home is located to determine the salary schedule of that**  
 6           **school corporation.**

7           **(b) The state superintendent shall, following the annual review**  
 8           **required by subsection (a), prescribe, subject to approval by the**  
 9           **state personnel department and the budget agency, a salary**  
 10          **schedule for the children's home, using a daily rate of pay for each**  
 11          **teacher that is commensurate with the salary schedules of the**  
 12          **school corporation that has the greatest current ADM (as defined**  
 13          **in IC 20-43-1-10) in the county in which the children's home is**  
 14          **located.**

15          **(c) The state superintendent shall prescribe the terms of the**  
 16          **annual contract awarded to licensed teachers qualifying for**  
 17          **payment under this schedule.**

18          **(d) The department shall advise the budget agency and the**  
 19          **governor of the department's action under this section. Hours of**  
 20          **work for all teachers shall be set in accordance with IC 4-15-2.**

21          **Sec. 8. IC 4-13-2 applies to the children's home.**

22          **Chapter 2. Indiana Soldiers' and Sailors' Children's Home**

23          **Sec. 1. As used in this chapter, "armed forces of the United**  
 24          **States" means the forces and components of the following:**

- 25               **(1) The United States Army.**
- 26               **(2) The United States Navy.**
- 27               **(3) The United States Marine Corps.**
- 28               **(4) The United States Air Force.**
- 29               **(5) The United States Coast Guard.**

30          **Sec. 2. As used in this chapter, the "county of residence of the**  
 31          **child":**

- 32               **(1) is the county of residence of the responsible parent; or**
- 33               **(2) if there is no responsible parent, is the county within which**
- 34               **the child's guardianship or wardship is established by**
- 35               **appointment of the court.**

36          **Sec. 3. As used in this chapter, "member of the armed forces"**  
 37          **means the following:**

- 38               **(1) An individual who is on active duty in the armed forces of**

1           the United States or National Guard.

2           (2) An individual who previously has served on active duty in  
3           the armed forces of the United States or National Guard and  
4           has received an honorable or general discharge.

5           Sec. 4. As used in this chapter, "National Guard" means:

6           (1) the Indiana Army National Guard; or

7           (2) the Indiana Air National Guard.

8           Sec. 5. The Indiana Soldiers' and Sailors' Children's Home is  
9           established as a state residential school and home for the care of  
10          Indiana children who are in need of residential care and would  
11          qualify for educational service. Preference shall be given to the  
12          admission of children of members of the armed forces and children  
13          of families of veterans who meet these admission criteria. A child  
14          who requires residential placement in a secure facility (as defined  
15          in IC 31-9-2-114), a juvenile detention facility, or a detention center  
16          for the safety of the child or others may not be placed at the  
17          children's home.

18          Sec. 6. (a) The children of the children's home shall be:

19           (1) taught and treated in a manner that promotes the  
20           children's physical, intellectual, and moral improvement; and

21           (2) trained in habits of industry, studiousness, and morality.

22          (b) The superintendent of the children's home shall afford to the  
23          children of the children's home literary, art, technical, and  
24          industrial education as can reasonably be provided.

25          Sec. 7. (a) The children's home must be accredited as a public  
26          school. The superintendent of the children's home may arrange in  
27          a special situation, as provided by the department, for the  
28          education of a child in a school in a county school corporation  
29          reorganized under IC 20-23 near the home.

30          (b) A person who teaches at the children's home must be  
31          qualified and properly licensed by the state board.

32          Sec. 8. (a) The superintendent of the children's home shall  
33          establish and maintain a vocational school on the grounds of the  
34          home and maintain suitable facilities in which vocational trades  
35          and arts are taught.

36          (b) The superintendent of the children's home may enter into  
37          contracts with other school corporations or entities for the use of  
38          the vocational school.



1           (c) The superintendent may use donated money or state money  
2 without limitation to finance vocational construction projects that  
3 are:

- 4           (1) authorized by the budget agency; and
- 5           (2) in accordance with designs approved by the public works  
6 division of the Indiana department of administration.

7           **Sec. 9. The superintendent of the children's home shall:**

- 8           (1) provide the Indiana National Guard Youth Challenge  
9 Academy with access to all facilities and space necessary to  
10 carry out the purpose of the Indiana National Guard Youth  
11 Challenge Academy; and
- 12           (2) enter into an agreement with the Indiana National Guard  
13 to allocate costs associated with the use of facilities or services  
14 used by both the Indiana National Guard and the children's  
15 home.

16           **Sec. 10. The superintendent of the children's home, with**  
17 **approval of the state superintendent, may enter into contracts or**  
18 **agreements with other state agencies, school corporations, or other**  
19 **entities to use the:**

- 20           (1) facilities or services of the children's home; and
- 21           (2) children's home for summer camps, seminars, programs,  
22 or other educational events.

23           **Sec. 11. (a) After an adequate investigation as determined by the**  
24 **superintendent of the children's home or the designee of the**  
25 **superintendent of the children's home, including consideration of**  
26 **appropriateness of placement, the superintendent of the children's**  
27 **home shall receive as a resident in the children's home a child if the**  
28 **child meets the requirements under subsection (b).**

29           **(b) Before a child may be received as a resident in the children's**  
30 **home under subsection (a), the child must meet the following**  
31 **requirements:**

- 32           (1) The parent or parents of the child are Indiana residents  
33 immediately before application or the child is physically  
34 present in Indiana immediately before application.
- 35           (2) The child is at least three (3) years of age but less than  
36 eighteen (18) years of age.
- 37           (3) The child is in need of residential care and education.

38           **(c) If the applications of all children of members of the armed**

forces have been considered and space is available, the superintendent of the children's home may, if a child meets the requirements under subsection (b), receive as residents in the children's home the:

- (1) grandchildren;
- (2) stepchildren;
- (3) brothers;
- (4) sisters;
- (5) nephews; and
- (6) nieces;

of members of the armed forces who are in need of residential care and education.

(d) If the applications of all children eligible for residence under subsections (a) through (c) have been considered and if space is available, the superintendent of the children's home may accept for residence children referred:

- (1) by the department of child services established by IC 31-25-1-1; or
- (2) by the division of special education established by IC 20-35-2-1;

subject to an adequate investigation as determined by the superintendent of the children's home or the designee of the superintendent of the children's home, including a consideration of appropriateness of placement.

**Sec. 12. (a)** An application for admission to the children's home may be made by a responsible parent, a guardian, a representative of the court, or the department of child services.

(b) If an application is submitted by a person other than a responsible parent or guardian, the superintendent of the children's home shall cooperate with the department of child services to ensure that an appropriate case study is made upon application and continued throughout the period the child resides at the children's home.

**Sec. 13. (a)** The superintendent of the children's home is responsible for the care, control, and training of children admitted to and living in the home from the day a child is admitted to the home until the child is:

- (1) eighteen (18) years of age; or

- 1           (2) discharged from the home.
- 2           (b) The superintendent of the children's home shall make
- 3           certain in the case of every child in the home that:
- 4           (1) there is a responsible parent;
- 5           (2) there is a responsible relative; or
- 6           (3) if a responsible parent or relative is not available, the child
- 7           is a ward of the department of child services from which there
- 8           is a representative;
- 9           who is regularly and frequently concerned with the welfare of the
- 10          child.
- 11          (c) If:
- 12           (1) the parent or parents have been deprived by order of the
- 13           court of the custody and control of a child admitted to the
- 14           children's home; and
- 15           (2) custody has been given by the court to the department of
- 16           child services;
- 17          the wardship shall be retained by the department of child services.
- 18          Sec. 14. (a) Either parent, a guardian, a relative, or the
- 19          department of child services applying for the admission of a child
- 20          to the children's home shall, in securing admittance of the child,
- 21          place the child in the children's home for the length of time
- 22          determined to be in the best interests of the child.
- 23          (b) A child shall be returned at any time to the:
- 24           (1) parent or parents;
- 25           (2) guardian;
- 26           (3) relative; or
- 27           (4) department of child services that placed the child in the
- 28           children's home;
- 29          if removal of the child from the children's home is applied for upon
- 30          written application. The superintendent of the children's home
- 31          may require not more than thirty (30) days notice when a
- 32          discharge is requested.
- 33          (c) If the superintendent of the children's home finds that a child
- 34          does not adjust to institutional living or is not educable, the
- 35          superintendent of the children's home:
- 36           (1) may:
- 37           (A) with the approval of the state superintendent; and
- 38           (B) upon proper notification;

1 discharge the child to the applicant placing the child in the  
2 children's home; and

3 (2) shall cooperate with the department of child services for  
4 further disposition of the case as necessary.

5 Sec. 15. A child admitted to the children's home may not be  
6 permanently removed from the children's home and placed  
7 elsewhere without the express approval of the:

8 (1) parent or parents who;

9 (2) guardian who;

10 (3) relative who; or

11 (4) department of child services that;

12 applied for admission of the child to the children's home.

13 Sec. 16. Either parent, a guardian, a relative, a representative  
14 of the department of child services, or other person approved by  
15 the superintendent of the children's home may visit a child  
16 admitted to the children's home at times or places the  
17 superintendent of the children's home prescribes.

18 Sec. 17. (a) Each child, the estate of the child, the parent or  
19 parents of the child, or the guardian of the child, individually or  
20 collectively, are liable for the payment of the costs of maintenance  
21 of the child of up to one hundred percent (100%) of the per capita  
22 cost, except as otherwise provided. The cost shall be computed  
23 annually by dividing the total annual cost of operation for the fiscal  
24 year, exclusive of the cost of education programs, construction, and  
25 equipment, by three hundred sixty-five (365). The maintenance  
26 cost shall be referred to as maintenance charges. The charge may  
27 not be levied against any of the following:

28 (1) A county or any person or office, to be derived from  
29 county tax sources.

30 (2) A child orphaned by reason of the death of the natural  
31 parents.

32 (b) The billing and collection of the maintenance charges as  
33 provided for in subsection (a) shall be made by the superintendent  
34 of the children's home based on the per capita cost for the  
35 preceding fiscal year. All money collected shall be deposited in a  
36 fund to be known as the Indiana soldiers' and sailors' children's  
37 home maintenance fund. The fund shall be used by the state  
38 superintendent for the:

1           (1) preventative maintenance; and

2           (2) repair and rehabilitation;

3       of buildings of the children's home that are used for housing, food  
4       service, or education of the children of the children's home.

5           (c) The superintendent of the children's home may, with the  
6       approval of the state superintendent, agree to accept payment at a  
7       lesser rate than that prescribed in subsection (a). The  
8       superintendent of the children's home shall, in determining  
9       whether or not to accept the lesser amount, take into consideration  
10      the amount of money that is necessary to maintain or support any  
11      member of the family of the child. All agreements to accept a lesser  
12      amount are subject to cancellation or modification at any time by  
13      the superintendent of the children's home with the approval of the  
14      state superintendent.

15          (d) A person who has been issued a statement of amounts due as  
16      maintenance charges may petition the superintendent of the  
17      children's home for a release from or modification of the statement  
18      and the superintendent of the children's home shall provide for  
19      hearings to be held on the petition. The superintendent of the  
20      children's home may, with the approval of the state superintendent  
21      and after the hearing, cancel or modify the former statement and  
22      at any time for due cause may increase the amounts due for  
23      maintenance charges to an amount not to exceed the maximum cost  
24      as determined under subsection (a).

25          (e) The superintendent of the children's home may arrange for  
26      the establishment of a graduation or discharge trust account for a  
27      child by arranging to accept a lesser rate of maintenance charge.  
28      The trust fund must be of sufficient size to provide for immediate  
29      expenses upon graduation or discharge.

30          (f) The superintendent of the children's home may make  
31      agreements with instrumentalities of the federal government for  
32      application of any monetary awards to be applied toward the  
33      maintenance charges in a manner that provides a sufficient amount  
34      of the periodic award to be deposited in the child's trust account to  
35      meet the immediate personal needs of the child and to provide a  
36      suitable graduation or discharge allowance. The amount applied  
37      toward the settlement of maintenance charges may not exceed the  
38      amount specified in subsection (a).

1           (g) The superintendent of the children's home may do the  
2 following:

3           (1) Investigate, either with the superintendent of the  
4 children's home's own staff or on a contractual or other basis,  
5 the financial condition of each person liable under this  
6 chapter.

7           (2) Make determinations of the ability of:

8               (A) the estate of the child;

9               (B) the legal guardian of the child; or

10           (C) each of the responsible parents of the child;  
11 to pay maintenance charges.

12           (3) Set a standard as a basis of judgment of ability to pay that  
13 shall be recomputed periodically to do the following:

14               (A) Reflect changes in the cost of living and other pertinent  
15 factors.

16               (B) Provide for unusual and exceptional circumstances in  
17 the application of the standard.

18           (4) Issue to any person liable under this chapter statements of  
19 amounts due as maintenance charges, requiring the person to  
20 pay monthly, quarterly, or otherwise as may be arranged, an  
21 amount not exceeding the maximum cost as determined under  
22 this chapter.

23       Sec. 18. (a) In the case of a child who is:

24           (1) adjudicated to be a delinquent child or child in need of  
25 services by a juvenile court; and

26           (2) placed by or with the consent of the department of child  
27 services in the children's home;

28 the department of child services shall reimburse the cost of services  
29 provided to the child, including related transportation costs, and  
30 any cost incurred by a county where the children's home is located  
31 to transport or detain the child before the child is adjudicated to be  
32 a delinquent child or child in need of services.

33           (b) The department of child services shall reimburse and pay  
34 costs under this section.

35           (c) The department of child services may require the parent or  
36 guardian of the child, other than a parent, guardian, or custodian  
37 associated with the children's home, to reimburse the department  
38 for an amount paid under this section.

1       (d) A child who is admitted to the children's home does not  
2       become a resident of the county where the children's home is  
3       located.

4       (e) When an unemancipated child is released from the children's  
5       home, the department of child services is responsible for  
6       transporting the child to the parent or guardian of the child. If a  
7       parent or guardian does not exist for an unemancipated child  
8       released from the home, the department of child services shall  
9       obtain custody of the child.

10       Sec. 19. (a) The attorney general shall, upon notification by the  
11       superintendent of the children's home through the state  
12       superintendent, bring suit in the name of the state of Indiana on  
13       behalf of the superintendent of the children's home against the  
14       estate of a person failing to make payments as required in this  
15       chapter.

16       (b) If a judgment is obtained under this section, the judgment  
17       constitutes a lien against that part of the estate of a person as  
18       described in the complaint.

19       (c) The attorney general may bring suit against the parent,  
20       parents, or legal guardian of a child for failure to comply with the  
21       maintenance agreement or for failure to make an agreement. Suit  
22       may be brought for the amount due the state for the maintenance  
23       charges of the child. The court may order the payment of amounts  
24       due for maintenance charges for a time as the circumstances  
25       require. The order may be entered against any or all of the  
26       defendants and may be based upon the proportionate ability of  
27       each defendant to contribute to the payment of amounts  
28       representing maintenance charges. Orders for the payment of  
29       money may be enforced by attachment as in contempt proceedings  
30       against the persons of the defendants, and in addition as other  
31       judgments at law, and costs may be adjudged against and  
32       apportioned among the defendants.

33       Sec. 20. (a) The superintendent of the children's home shall do  
34       the following:

- 35           (1) Cause the grounds of the home to be:
  - 36               (A) kept in proper order; and
  - 37               (B) ornamented with trees, shrubs, and flowers.
- 38           (2) Provide and maintain conservatories or greenhouses.

**(b) The superintendent of the children's home:**

- (1) may have any suitable land connected with the home cultivated for the use and benefit of the children's home; and**
- (2) shall have the children in the children's home assist in the work.**

**Sec. 21. The superintendent of the children's home shall have the children in the children's home assist in the following:**

- (1) Housekeeping services of the children's home.**
- (2) Manufacture and repair of the clothing of children.**
- (3) The provision of services necessary for the children's home.**

**Sec. 22. In prescribing labor, service, and study for the children of the children's home, the superintendent of the children's home shall consider the proper education and training of the children.**

**Sec. 23. The superintendent of the children's home may, subject to IC 4-24-3-2, receive for the use of the home:**

- (1) gifts;**
- (2) legacies;**
- (3) devises; and**
- (4) conveyances of real and personal property;**

**that are made, given, or granted to or for the children's home or in the name of the children's home.**

**Sec. 24. (a) Notwithstanding IC 22-2-5-2, the children's home and:**

- (1) an employee if there is no representative described under subdivision (2) or (3) for that employee;**
- (2) the exclusive representative of its certificated employees with respect to those employees; or**
- (3) a labor organization representing its noncertificated employees with respect to those employees;**

**may agree in writing to a wage payment arrangement.**

**(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:**

- (1) using equal installments or any other method; and**
- (2) over:**
  - (A) all or part of that school year; or**
  - (B) any other period that begins not earlier than the first**



1           day of that school year and ends not later than thirteen  
2           (13) months after the wage payment arrangement period  
3           begins.

4           An arrangement may provide that compensation earned in a  
5           calendar year is paid in the next calendar year, so long as all the  
6           compensation is paid within the thirteen (13) month period  
7           beginning with the first day of the school year.

8           (c) A wage payment arrangement under subsection (a) must be  
9           structured in a manner that is not considered:

10           (1) a nonqualified deferred compensation plan for purposes of  
11           Section 409A of the Internal Revenue Code; or

12           (2) deferred compensation for purposes of Section 457(f) of  
13           the Internal Revenue Code.

14           (d) Absent an agreement under subsection (a), the children's  
15           home remains subject to IC 22-2-5-1.

16           (e) Wage payments required under a wage payment  
17           arrangement entered into under subsection (a) are enforceable  
18           under IC 22-2-5-2.

19           (f) If an employee leaves employment for any reason, either  
20           permanently or temporarily, the amount due the employee under  
21           IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned  
22           and unpaid.

23           (g) Employment with the home may not be conditioned upon the  
24           acceptance of a wage payment arrangement under subsection (a).

25           (h) An employee may revoke a wage payment arrangement  
26           under subsection (a) at the beginning of each school year.

27           SECTION 306. IC 20-33-2-9, AS AMENDED BY P.L.185-2006,  
28           SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29           JULY 1, 2009]: Sec. 9. (a) The governing body of each school  
30           corporation shall designate the appropriate employees of the school  
31           corporation to conduct the exit interviews for students described in  
32           section ~~6(a)(3)~~ 6(3) of this chapter. Each exit interview must be  
33           personally attended by:

34           (1) the student's parent;

35           (2) the student;

36           (3) each designated appropriate school employee; and

37           (4) the student's principal.

38           (b) A student who is at least sixteen (16) years of age but less than

1 eighteen (18) years of age is bound by the requirements of compulsory  
 2 school attendance and may not withdraw from school before graduation  
 3 unless:

4 (1) the student, the student's parent, and the principal agree to the  
 5 withdrawal;

6 (2) at the exit interview, the student provides written  
 7 acknowledgment of the withdrawal that meets the requirements  
 8 of subsection (c) and the:

9 (A) student's parent; and

10 (B) school principal;

11 each provide written consent for the student to withdraw from  
 12 school; and

13 (3) the withdrawal is due to:

14 (A) financial hardship and the individual must be employed to  
 15 support the individual's family or a dependent;

16 (B) illness; or

17 (C) an order by a court that has jurisdiction over the student.

18 (c) A written acknowledgment of withdrawal under subsection (b)  
 19 must include a statement that the student and the student's parent  
 20 understand that withdrawing from school is likely to:

21 (1) reduce the student's future earnings; and

22 (2) increase the student's likelihood of being unemployed in the  
 23 future.

24 **(d) At an exit interview, the employee designated by the school**  
 25 **corporation under subsection (a) to conduct the exit interview shall**  
 26 **provide to the student's parent a copy of the written form**  
 27 **developed under subsection (e) describing services offered at the**  
 28 **children's home established by IC 20-22.5-2-5 and the Indiana**  
 29 **National Guard Youth Challenge Academy. The student's parent**  
 30 **shall provide written acknowledgment that the parent received a**  
 31 **copy of the form.**

32 **(e) For purposes of subsection (d), the department, in**  
 33 **consultation with the superintendent of the children's home and the**  
 34 **Indiana National Guard, shall develop a form describing the**  
 35 **services provided by the children's home and the Indiana National**  
 36 **Guard Youth Challenge Academy. The department shall provide**  
 37 **each school corporation with a sufficient number of copies of the**  
 38 **form developed under this subsection.**

SECTION 307. IC 20-33-8-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 19.5. (a) In addition to the notice of the right to appear at an expulsion meeting provided under section 19(b) of this chapter, the superintendent shall provide to a student's parent a copy of the written form described in subsection (b) informing the student's parent of services provided by the children's home established by IC 20-22.5-2-5 and the Indiana National Guard Youth Challenge Academy.**

**(b) For purposes of subsection (a), the department, in consultation with the superintendent of the children's home and the Indiana National Guard, shall develop a form describing the services provided by the children's home and the Indiana National Guard Youth Challenge Academy. The department shall provide each school corporation with a sufficient number of copies of the form developed under this subsection."**

Page 306, line 26, after "(a)" insert "This section applies to a school corporation for which the quotient determined under STEP FOUR of the following formula is at least ten percent (10%):

**STEP ONE: Determine the total number of charters that have been granted for operation within the corporate boundaries of the school corporation.**

**STEP TWO: Determine the total number of school buildings in which student instruction is provided and operated by the school corporation within the corporate boundaries of the school corporation.**

**STEP THREE: Add the number determined under STEP ONE and the number determined under STEP TWO.**

**STEP FOUR: Determine a percentage by dividing:**

**(A) the number determined under STEP ONE; by**

**(B) the sum determined under STEP THREE.**

**(b)".**

Page 306, line 27, delete "not more than one (1) additional" and insert "in a school corporation to which this section applies, a".

Page 306, line 28, delete "in a particular calendar year." and insert "only with the approval of the governing body of the school corporation."

Page 306, delete line 29.

1       Page 320, line 28, after "of" insert "~~adjusted~~ assessed valuation ~~(as~~  
2 ~~determined under IC 6-1.1-34-8)~~ per student in ADM."

3       Page 323, between lines 31 and 32, begin a new paragraph and  
4 insert:

5       "SECTION 351. IC 27-1-3.1-14 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Upon the  
7 adoption of an examination report under section 11(a)(1) of this  
8 chapter, the commissioner shall continue to hold the content of the  
9 examination report as confidential information for a period of thirty  
10 (30) days except to the extent provided in section 10(b) of this chapter.  
11 Thereafter, the report shall be open for public inspection.

12       (b) This chapter does not prevent or prohibit the commissioner from  
13 disclosing the content of an examination report, preliminary  
14 examination report, or results, or any matter relating thereto, to **the**  
15 **National Association of Insurance Commissioners**, the insurance  
16 department of any other state or country, or to law enforcement  
17 officials of Indiana or any other state or agency of the federal  
18 government at any time, if the agency or office receiving the report or  
19 matters relating thereto agrees in writing to hold it confidential and in  
20 a manner consistent with this chapter.

21       (c) If the commissioner determines that regulatory action is  
22 appropriate as a result of any examination, the commissioner may  
23 initiate any proceedings or actions authorized by law.

24       (d) This chapter does not limit the commissioner's authority to use  
25 and, if appropriate, to make public any final or preliminary examination  
26 report, any examiner or company workpapers or other documents, or  
27 any other information discovered or developed during the course of any  
28 examination in the furtherance of any legal or regulatory action that the  
29 commissioner may, in the commissioner's sole discretion, consider  
30 appropriate.

31       SECTION 352. IC 27-1-3.1-15 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. All working papers,  
33 recorded information, documents, and copies thereof produced by,  
34 obtained by, or disclosed to the commissioner or any other person in  
35 the course of an examination under this chapter (**including trade**  
36 **secrets and information obtained from a federal agency, a foreign**  
37 **country, the National Association of Insurance Commissioners, or**  
38 **under another state law)** are confidential for the purposes of

IC 5-14-3-4, are not subject to subpoena, and may not be made public by the commissioner or any other person, except to the extent provided in section 14 of this chapter. However, access may also be granted to the National Association of Insurance Commissioners. Those parties must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

SECTION 353. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 354. IC 27-1-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter, "~~commissioner~~" refers to the insurance commissioner ~~appointed under IC 27-1-1-2~~; "**accountant**" means an independent certified public accountant or accounting firm that is:

- (1) in good standing with the American Institute of Certified Public Accountants and in all states in which the accountant is licensed to practice;
- (2) Canadian chartered if the insurer is a Canadian insurer; or
- (3) British chartered if the insurer is a British insurer.

SECTION 355. IC 27-1-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As used in this chapter, "work papers" means the records kept by ~~the independent auditor~~ **an accountant** of the procedures followed, the tests performed, the information obtained, and the conclusions reached ~~by the independent auditor's~~ **related to the accountant's** audit of the financial statements of ~~a domestic an~~ insurer.

(b) The term includes any audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, and schedules or commentaries that:

- (1) are prepared or obtained by the ~~independent auditor~~ **accountant** in the course of ~~any the accountant's~~ audit of the financial statements of ~~a domestic an~~ insurer; and
- (2) support the ~~independent auditor's~~ **accountant's** opinion. ~~on~~

1           ~~the domestic insurer's financial statements.~~

2           SECTION 356. IC 27-1-3.5-5 IS AMENDED TO READ AS  
3           FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as  
4           provided in subsections (b) and (c), this chapter applies to all ~~domestic~~  
5           insurers.

6           (b) ~~A domestic~~ **An** insurer that has:

- 7           (1) direct written premiums of less than one million dollars
- 8           (\$1,000,000) in any calendar year; ~~and~~
- 9           (2) less than one thousand (1,000) policyholders or certificate
- 10          holders of ~~directly~~ **direct** written policies nationwide at the end
- 11          of a calendar year; **and**
- 12          **(3) assumed premiums under contracts or treaties of**
- 13          **reinsurance of less than one million dollars (\$1,000,000) in a**
- 14          **calendar year;**

15          is exempt from this chapter with respect to that year. However, the  
16          commissioner may require compliance with this chapter upon a finding  
17          that compliance with this chapter is necessary for the commissioner to  
18          carry out a statutory responsibility.

19          (c) A foreign or an alien insurer that files an audited financial report  
20          in another state ~~or country pursuant to that~~ **under the other** state's ~~or~~  
21          ~~country's~~ requirement for **filing of annual** audited financial reports is  
22          exempt **from sections 6 through 13 of this chapter** with respect to the  
23          year of ~~that the annual~~ audited financial report, ~~from the requirement~~  
24          to file an audited financial report with the commissioner under this  
25          chapter, if:

- 26          (1) the commissioner has found the other state's ~~or country's~~
- 27          requirement for **filing of** audited financial reports to be
- 28          substantially similar to the requirements of this chapter;
- 29          (2) ~~copies a copy~~ **a copy** of the audited financial report, the ~~report on~~
- 30          ~~significant deficiencies in communication of~~ **internal controls;**
- 31          **control related matters noted in an audit,** and the accountant's
- 32          letter of qualifications filed with the other state ~~or country~~ are
- 33          filed with the commissioner in accordance with the filing dates set
- 34          forth in sections 8, ~~6 + 12,~~ and 12.5 of this chapter; and
- 35          (3) a copy of a notification of an adverse financial condition
- 36          report that is filed with the other state is filed with the
- 37          commissioner within the time specified in section 11 of this
- 38          chapter.

1        **(d) A foreign or an alien insurer that files a report of internal**  
 2        **control over financial reporting in another state is exempt from**  
 3        **filing the same report under this chapter if:**

4                **(1) the other state has reporting requirements substantially**  
 5                **similar to this chapter; and**

6                **(2) the report is filed with the commissioner of insurance of**  
 7                **the other state in a timely manner.**

8        ~~This~~ **(e)** Subsection **(c) or (d)** does not prevent the commissioner  
 9        from ordering, conducting, or performing examinations of ~~foreign or~~  
 10        ~~alien~~ insurers under the rules, regulations, and practices of the  
 11        department **under IC 27-1-3.1.**

12        SECTION 357. IC 27-1-3.5-6 IS AMENDED TO READ AS  
 13        FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) ~~A domestic An~~  
 14        insurer shall have an audit by an ~~independent auditor every year~~  
 15        **accountant** and shall file an audited financial report with the  
 16        commissioner every year ~~before~~ **not later than** June 1 immediately  
 17        following the December 31 that ends the year reported on in the  
 18        financial report. The commissioner may require ~~a domestic an~~ insurer  
 19        to file an audited financial report earlier than June 1 if the  
 20        commissioner gives the ~~domestic~~ insurer ninety (90) days advance  
 21        notice of the earlier filing date.

22        (b) An extension of the June 1 filing date may be granted by the  
 23        commissioner for thirty (30) days upon a showing by the insurer and ~~its~~  
 24        ~~independent auditor~~ **the insurer's accountant** of the reasons for  
 25        requesting the extension and a determination by the commissioner that  
 26        there is good cause for an extension. The request for an extension must  
 27        be submitted in writing at least ten (10) days before the due date and  
 28        must include sufficient detail to permit the commissioner to make an  
 29        informed decision with respect to the requested extension.

30        **(c) If an extension is granted under subsection (b), a similar**  
 31        **extension of thirty (30) days is granted for the filing of the insurer's**  
 32        **management report of internal control over financial reporting.**

33        SECTION 358. IC 27-1-3.5-7 IS AMENDED TO READ AS  
 34        FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The annual  
 35        audited financial report filed by ~~a domestic an~~ insurer under this  
 36        chapter shall report:

37                (1) the financial position of the ~~domestic~~ insurer as of the end of  
 38                the most recently ended calendar year; and

(2) the results of the ~~domestic~~ insurer's operations, cash flow, and changes in capital and surplus for that year; in conformity with statutory accounting practices prescribed, or otherwise permitted, by the department of insurance **of the insurer's state of domicile.**

~~(b) The financial statements included in the annual audited financial report filed by a domestic insurer under this chapter shall be examined by an independent auditor. The independent auditor shall conduct its examination of the domestic insurer's financial statements in accordance with generally accepted auditing standards; and shall consider such other procedures illustrated in the Financial Condition Examiner's Handbook published by the National Association of Insurance Commissioners as the independent auditor considers necessary.~~

~~(c)~~ **(b)** An annual audited financial report filed by a ~~domestic an~~ insurer under this chapter must include the following:

- (1) The report of the insurer's ~~independent auditor~~ **accountant.**
- (2) A balance sheet reporting admitted assets, liabilities, capital, and surplus.
- (3) A statement of operations.
- (4) A statement of cash flow.
- (5) A statement of changes in capital and surplus.
- (6) Notes to financial statements. The notes must:

**(A)** be those required by the National Association of Insurance Commissioners' annual statement instructions and ~~any other notes required by statutory accounting practices; which must the National Association of Insurance Commissioners' accounting practices and procedures manual; and~~

**(B)** include the following:

~~(A)~~ a reconciliation of differences, if any, between the **audited statutory** financial statements ~~included in the audited financial report~~ and the annual **financial** statement filed by the insurer under IC 27-1-20-21, including a written description of the nature of these differences.

~~(B)~~ A summary of the ownership and relationships of the domestic insurer and all affiliated companies.

~~(d)~~ **(c)** The financial statements included in a ~~domestic an~~ insurer's audited financial report shall be prepared in the same form, and using



1 language and groupings substantially the same, as the relevant sections  
 2 of the annual statement of the insurer filed with the commissioner  
 3 under IC 27-1-20-21.

4 ~~(c)~~ **(d)** The financial statements included in ~~a domestic an~~ insurer's  
 5 audited financial report must be comparative, presenting the amounts  
 6 as of December 31 of the year of the report and comparative amounts  
 7 as of the immediately preceding December 31. However, in the first  
 8 year in which an insurer is required to file an audited financial report  
 9 under this chapter, the comparative data may be omitted.

10 SECTION 359. IC 27-1-3.5-8 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) ~~A domestic An~~  
 12 insurer that is required by this chapter to file ~~an~~ annual audited  
 13 financial ~~reports~~ **report** shall, not more than sixty (60) days after  
 14 becoming subject to the requirement, register in writing with the  
 15 commissioner the name and address of the ~~independent auditor~~  
 16 **accountant** retained by the insurer to conduct the annual ~~audits~~ **audit**  
 17 required by this chapter. ~~The domestic insurer shall continuously~~  
 18 ~~ensure that the information provided to the commissioner under this~~  
 19 ~~section is accurate; and shall inform the commissioner in writing of any~~  
 20 ~~change in the identity or address of its independent auditor. An insurer~~  
 21 **that does not have an accountant on retainer on July 1, 2009, shall**  
 22 **register the name and address of the insurer's retained accountant**  
 23 **at least six (6) months before the first date by which the insurer's**  
 24 **first annual audited financial report is to be filed after June 30,**  
 25 **2009.**

26 (b) ~~A domestic An~~ insurer shall obtain a letter from ~~its independent~~  
 27 ~~auditor the insurer's accountant~~ that:

28 (1) states that the ~~independent auditor accountant~~ is aware of the  
 29 provisions of IC 27 and the administrative rules of the department  
 30 of insurance **of the insurer's state of domicile** that relate to  
 31 ~~auditing~~, accounting and financial matters; and

32 (2) affirms that the ~~independent auditor accountant~~ will express  
 33 ~~its the accountant's~~ opinion on the financial statements ~~of the~~  
 34 ~~domestic insurer in the~~ terms of their conformity to the statutory  
 35 accounting practices prescribed or otherwise permitted by the  
 36 department, specifying such exceptions as the ~~independent~~  
 37 **auditor accountant** may believe appropriate.

38 The ~~domestic~~ insurer shall file a copy of this letter with the

1 commissioner.

2 (c) If an ~~independent auditor~~ **accountant** that ~~served as the~~  
 3 **accountant for the immediately preceding** audited ~~the most recent~~  
 4 financial report filed by the insurer with the commissioner under this  
 5 chapter ~~is subsequently ceases to be terminated by the insurer or~~  
 6 **resigns as the independent auditor accountant** for the insurer, the  
 7 insurer shall:

8 (1) not more than five (5) business days after the ~~cessation of the~~  
 9 ~~independent auditor's services;~~ **termination or resignation**,  
 10 notify the commissioner in writing of the ~~identity and address of~~  
 11 ~~the new independent auditor;~~ **termination or resignation;**

12 (2) not more than ten (10) business days after the notification  
 13 given ~~in~~ **under** subdivision (1), furnish the commissioner with a  
 14 separate letter that states whether in the twenty-four (24) months  
 15 preceding the ~~engagement of the new independent auditor~~  
 16 **termination or resignation** there were any disagreements  
 17 between the insurer and ~~its~~ **the former independent auditor**  
 18 **accountant** on any matter of accounting principles or practices,  
 19 financial statement disclosure, or auditing scope or procedure,  
 20 which, if not resolved to the satisfaction of the former  
 21 ~~independent auditor accountant~~, would have caused the former  
 22 ~~independent auditor accountant~~ to make reference to the subject  
 23 matter of the disagreement in **connection with** the former  
 24 ~~independent auditor's statement of its accountant's opinion. on~~  
 25 ~~the insurer's financial report, and, if there was such a~~  
 26 ~~disagreement, provides a description of the disagreement.~~  
 27 Disagreements required to be reported under this subdivision  
 28 include those at the decision making level that were resolved:

29 (A) to the former accountant's satisfaction; and

30 (B) not to the former accountant's satisfaction; and

31 (3) comply with subsection (d).

32 For the purposes of this subsection, "decision making level" refers to  
 33 the personnel of the insurer who are responsible for the presentation of  
 34 the insurer's financial statements and the personnel of the ~~independent~~  
 35 ~~auditor accountant~~ who are responsible for rendering the ~~opinion of~~  
 36 ~~the auditor on the~~ insurer's **audited** financial report.

37 (d) ~~A domestic An~~ insurer subject to the provisions of subsection (c)  
 38 shall:

(1) provide its former ~~independent auditor~~ **accountant** with a copy of the letter furnished to the commissioner under subsection (c)(2); and

(2) request in writing its former ~~independent auditor~~ **accountant** to furnish a letter addressed to the insurer stating whether the former ~~independent auditor~~ **accountant** agrees with the statements contained in the letter furnished to the commissioner under subsection (c)(2) and, if not, stating the reasons for the former ~~independent auditor's~~ **accountant's** disagreement.

The ~~domestic~~ insurer shall furnish the commissioner with a copy of any responsive letter ~~it the insurer~~ receives from ~~its the insurer's~~ former ~~independent auditor~~ **within five (5) business days after the insurer receives the accountant together with the insurer's own** letter.

SECTION 360. IC 27-1-3.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. ~~A domestic~~ **An** insurer may apply in writing to the commissioner for approval to ~~satisfy the requirements of this chapter by filing file~~ audited consolidated or combined financial statements instead of separate annual audited financial statements if the insurer is part of a group of insurance companies that utilizes a pooling or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of the insurer's direct and assumed business to the pool. If ~~a domestic an~~ insurer whose application is approved elects to file a consolidated return, the insurer shall file, with its financial statements, a columnar consolidating or combining ~~schedule, worksheet,~~ which must meet the following requirements:

(1) Amounts shown on the consolidated or combined **annual** audited financial report shall be shown on the ~~schedule~~ **worksheet.**

(2) Amounts for each insurer subject to this section shall be stated separately.

(3) Noninsurance operations ~~shall may~~ be shown on the ~~schedule~~ **worksheet on a combined or** an individual basis.

(4) Explanations of consolidating and eliminating entries shall be included.

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the

~~schedule worksheet~~ and comparable amounts shown on the annual statements of the insurers.

SECTION 361. IC 27-1-3.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) ~~A domestic An~~ insurer required to file ~~an~~ annual audited financial ~~reports~~ **report** under this chapter shall require ~~its independent auditor~~ **the accountant** to report in writing to the board of directors or the ~~board of director's~~ audit committee, not more than five (5) business days after making ~~a~~ **the** determination, the ~~independent auditor's~~ **accountant's** determination that:

(1) the ~~domestic~~ insurer has materially misstated to the commissioner the financial condition of the insurer as of the date of the balance sheet being ~~examined~~ **audited** by the ~~independent auditor;~~ **accountant;** or

(2) the ~~domestic~~ insurer does not meet the minimum capital and surplus requirements of Indiana as of the date of the balance sheet being ~~examined~~ **audited** by the ~~independent auditor;~~ **accountant.**

The ~~domestic~~ insurer ~~who that~~ has received a report under this section shall forward a copy of the report to the commissioner within five (5) business days after receipt of the report and shall provide the ~~independent~~ accountant making the report with evidence of the report being furnished to the commissioner. An ~~independent auditor who~~ **accountant that** does not receive the evidence that the report was filed with the commissioner within the required five (5) business days shall furnish the commissioner a copy of the report within the next five (5) business days. An ~~independent auditor may~~ **accountant is not be** liable to any person for a statement made in connection with this subsection, if the statement is made in good faith compliance with this subsection.

(b) If the ~~independent auditor accountant,~~ of a domestic insurer, after the filing of the ~~insurer's~~ audited financial report under this chapter, becomes aware of facts that, if the ~~independent auditor~~ **accountant** had been aware of the facts when writing ~~its~~ **the** ~~accountant's~~ report, might have affected the ~~independent auditor's~~ **accountant's** report that was included in the insurer's **annual** audited financial report, the ~~independent auditor accountant~~ shall take such action as is prescribed in the **Volume 1, Section AU 561 of the** Professional Standards of the American Institute of Certified Public Accountants.

SECTION 362. IC 27-1-3.5-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. ~~The independent auditor~~ **An accountant** shall furnish the ~~domestic~~ insurer, in connection with and for inclusion in the filing of the annual audited financial report, a letter stating the following:

(1) That the ~~independent auditor~~ **accountant** is independent with respect to the insurer and conforms to the standards of the ~~independent auditor's~~ **accountant's** profession as contained in the Code of Professional Ethics and Pronouncements of the American Institute of Certified Public Accountants and the rules of professional conduct of the ~~Indiana~~ **applicable** state board of accountancy.

(2) The:

(A) general background and experience; and

(B) experience in audits of insurers;

of the staff assigned to the audit. The letter must also state whether each member of the staff is ~~a certified public an~~ **accountant**. This subdivision does not prohibit the ~~independent auditor from using~~ **accountant's use of** the staff ~~as~~ considered appropriate where such use is consistent with the standards prescribed by generally accepted auditing standards.

(3) That the ~~independent auditor~~ **accountant** understands that the:

(A) **annual audited financial report and the accountant's opinion on the annual audited financial report will be filed with the commissioner; and**

(B) **commissioner** will be relying on the ~~independent auditor's annual audited financial report and the independent auditor's opinion in the report for filed report and opinion in the~~ monitoring and regulation of the financial ~~positions~~ **position** of the ~~insurers~~ **insurer**.

(4) That the ~~independent auditor~~ **accountant** consents to the requirements of section 13 of this chapter and **consents and** agrees to make available for review by the commissioner, the commissioner's designee, or the commissioner's appointed agent, any of the ~~independent auditor's~~ **accountant's** work papers. ~~and significant communications.~~

(5) That the ~~independent auditor~~ **accountant** is properly licensed by an appropriate state licensing authority and is a member in

1 good standing in the American Institute of Certified Public  
2 Accountants.

3 ~~(6) That the independent auditor is in compliance with the~~  
4 ~~requirements of section 9 of this chapter.~~

5 SECTION 363. IC 27-1-3.5-13 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) ~~A domestic An~~  
7 insurer required to file an audited financial report under this chapter  
8 shall require ~~its independent auditor the accountant~~ to make available  
9 for review by department examiners:

10 (1) all work papers prepared in the conduct of the ~~independent~~  
11 ~~auditor's examination; accountant's audit; and~~

12 (2) any ~~record of significant~~ communications, related to the audit,  
13 between the ~~independent auditor accountant~~ and the insurer;  
14 ~~that took place at (A) the offices of the insurer, (B) the department, (C)~~  
15 ~~the offices of the independent auditor; or (D) any other reasonable~~  
16 ~~place designated by the commissioner.~~

17 ~~(b) The An insurer described in subsection (a)~~ shall require the  
18 ~~independent auditor accountant~~ to retain the audit work papers and  
19 communications until the department has filed a report on the  
20 examination covering the period of the audit but not later than seven  
21 (7) years after the date of the audit report.

22 ~~(b) (c)~~ Department examiners, in conducting a review ~~of an~~  
23 ~~independent auditor's work papers; under this section,~~ may make and  
24 retain ~~copies photocopies of the pertinent audit work papers. and~~  
25 ~~communications. A review of an independent auditor's work papers and~~  
26 ~~communications shall be under this section is~~ considered an  
27 investigation, and all work papers and communications obtained ~~or~~  
28 ~~copied~~ during the course of ~~that the~~ investigation are confidential  
29 under IC 27-1-3.1-15.

30 SECTION 364. IC 27-1-3.5-14 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) In response to  
32 a written application from ~~a domestic an~~ insurer, the commissioner  
33 may grant an exemption from compliance with this chapter if the  
34 commissioner finds, upon review of the application, that compliance  
35 with this chapter would constitute a financial or an organizational  
36 hardship upon the ~~domestic~~ insurer. An exemption may be granted at  
37 any time for a specified period.

38 (b) Within ten (10) days after the denial of ~~a domestic an~~ insurer's

1 written request for an exemption from this chapter, the insurer may, in  
 2 writing, request a hearing on its application for an exemption. The  
 3 hearing shall be held under IC 4-21.5.

4 SECTION 365. IC 27-1-3.5-16 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. A domestic insurer  
 6 that fails to file an audited annual financial report before July 1 or any  
 7 other deadline established by the commissioner for the insurer under  
 8 this chapter without having obtained an extension is subject to a civil  
 9 penalty of fifty dollars (\$50) per day until the report is received  
 10 **prescribed in rules adopted** by the commissioner.

11 SECTION 366. IC 27-1-3.5-18 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) In the case of a  
 13 British or Canadian insurer, the annual audited financial report refers  
 14 to the annual statement of total business on the form filed by the  
 15 company with its ~~domiciliary~~ supervision authority audited by an  
 16 ~~independent auditor.~~ **accountant.**

17 (b) For a British or Canadian insurer, the letter required under  
 18 section 8 of this chapter shall state that the accountant is aware of the  
 19 ~~requirement~~ **requirements** relating to the annual audited ~~statement~~  
 20 **financial report** filed with the commissioner under section 6 of this  
 21 chapter and shall affirm that the opinion expressed is in conformity  
 22 with those requirements.

23 SECTION 367. IC 27-1-9-12 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) In case of a  
 25 merger or consolidation between a domestic and a foreign company,  
 26 the articles of merger or consolidation shall be regarded as executed by  
 27 the proper officers of said foreign company when such officers are duly  
 28 authorized to execute same through such action on the part of the  
 29 directors, shareholders, members, or policyholders of said foreign  
 30 company as may be required by the laws of the state where the same is  
 31 incorporated; and upon execution, said articles of merger or  
 32 consolidation shall be submitted to the commissioner of insurance or  
 33 other officer at the head of the insurance department of the state where  
 34 such foreign company is incorporated. No such merger or consolidation  
 35 shall take effect until it shall have been approved by the insurance  
 36 official of the state where said foreign company is incorporated nor  
 37 until a certificate of his approval has been filed in the office of the  
 38 department of insurance of the state of Indiana. Such submission to and

1 approval by the proper official of such other state shall not be required  
 2 unless the same are required by the laws of such foreign state. The  
 3 domestic company involved in such merger or consolidation shall not  
 4 through anything contained in this section be relieved of any of the  
 5 procedural requirements enumerated in the preceding sections of this  
 6 article.

7 (b) No merger or consolidation between a domestic and a foreign  
 8 company shall take effect, unless and until the surviving or new  
 9 company, if such is a foreign company, ~~shall file with the department~~  
 10 ~~a power of attorney appointing the commissioner and his successors in~~  
 11 ~~office; the attorney for service of said foreign company; upon whom all~~  
 12 ~~lawful process against said company may be served. Said power of~~  
 13 ~~attorney shall be irrevocable so long as said foreign company has~~  
 14 ~~outstanding in this state any contract of insurance; or other obligation~~  
 15 ~~whatsoever; and shall by its terms so provide. Service upon the~~  
 16 ~~commissioner shall be deemed sufficient service upon the company.~~  
 17 **complies with IC 27-1-17-4(7).**

18 SECTION 368. IC 27-1-15.6-7 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Unless denied  
 20 licensure under section 12 of this chapter, a person who has met the  
 21 requirements of sections 5 and 6 of this chapter shall be issued an  
 22 insurance producer license. An insurance producer may receive  
 23 qualification for a license in one **(1)** or more of the following lines of  
 24 authority:

25 (1) Life — insurance coverage on human lives, including benefits  
 26 of endowment and annuities, that may include benefits in the  
 27 event of death or dismemberment by accident and benefits for  
 28 disability income.

29 (2) Accident and health or sickness — insurance coverage for  
 30 sickness, bodily injury, or accidental death that may include  
 31 benefits for disability income.

32 (3) Property — insurance coverage for the direct or consequential  
 33 loss of or damage to property of every kind.

34 (4) Casualty — insurance coverage against legal liability,  
 35 including liability for death, injury, or disability, or for damage to  
 36 real or personal property.

37 (5) Variable life and variable annuity products — insurance  
 38 coverage provided under variable life insurance contracts and



- 1 variable annuities.
- 2 (6) Personal lines — property and casualty insurance coverage
- 3 sold to individuals and families for primarily noncommercial
- 4 purposes.
- 5 (7) Credit — limited line credit insurance.
- 6 (8) Title — insurance coverage against loss or damage on account
- 7 of encumbrances on or defects in the title to real estate.
- 8 (9) Any other line of insurance permitted under Indiana laws or
- 9 administrative rules.
- 10 (b) A person who requests and receives qualification under
- 11 subsection (a)(5) for variable life and annuity products:
- 12 (1) is considered to have requested; and
- 13 (2) shall receive;
- 14 a life qualification under subsection (a)(1). **The insurance producer's**
- 15 **license document must clearly indicate that the life qualification**
- 16 **received under this subsection includes a qualification for variable**
- 17 **life and variable annuity products.**
- 18 (c) A resident insurance producer may not request separate
- 19 qualifications for property insurance and casualty insurance under
- 20 subsection (a).
- 21 (d) An insurance producer license remains in effect unless revoked
- 22 or suspended, as long as the renewal fee set forth in section 32 of this
- 23 chapter is paid and the educational requirements for resident individual
- 24 producers are met by the due date.
- 25 (e) An individual insurance producer who:
- 26 (1) allows the individual insurance producer's license to lapse;
- 27 and
- 28 (2) completed all required continuing education before the license
- 29 expired;
- 30 may, not more than twelve (12) months after the expiration date of the
- 31 license, reinstate the same license without the necessity of passing a
- 32 written examination. A penalty in the amount of three (3) times the
- 33 unpaid renewal fee shall be required for any renewal fee received after
- 34 the expiration date of the license. However, the department of
- 35 insurance may waive the penalty if the renewal fee is received not more
- 36 than thirty (30) days after the expiration date of the license.
- 37 (f) A licensed insurance producer who is unable to comply with
- 38 license renewal procedures due to military service or some other

1       extenuating circumstance may request a waiver of the license renewal  
2       procedures. The producer may also request a waiver of any  
3       examination requirement or any other fine or sanction imposed for  
4       failure to comply with the license renewal procedures.

5       (g) An insurance producer license shall contain the licensee's name,  
6       address, personal identification number, date of issuance, lines of  
7       authority, expiration date, and any other information the commissioner  
8       considers necessary.

9       (h) A licensee shall inform the commissioner of a change of address  
10      not more than thirty (30) days after the change by any means  
11      acceptable to the commissioner. The failure of a licensee to timely  
12      inform the commissioner of a change in legal name or address shall  
13      result in a penalty under section 12 of this chapter.

14      (i) To assist in the performance of the commissioner's duties, the  
15      commissioner may contract with nongovernmental entities, including  
16      the National Association of Insurance Commissioners (NAIC), or any  
17      affiliates or subsidiaries that the NAIC oversees, to perform ministerial  
18      functions, including the collection of fees related to producer licensing,  
19      that the commissioner and the nongovernmental entity consider  
20      appropriate.

21      (j) The commissioner may participate, in whole or in part, with the  
22      NAIC or any affiliate or subsidiary of the NAIC in a centralized  
23      insurance producer license registry through which insurance producer  
24      licenses are centrally or simultaneously effected for states that require  
25      an insurance producer license and participate in the centralized  
26      insurance producer license registry. If the commissioner determines  
27      that participation in the centralized insurance producer license registry  
28      is in the public interest, the commissioner may adopt rules under  
29      IC 4-22-2 specifying uniform standards and procedures that are  
30      necessary for participation in the registry, including standards and  
31      procedures for centralized license fee collection.

32      SECTION 369. IC 27-1-15.6-9 IS AMENDED TO READ AS  
33      FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) An individual  
34      who applies for an insurance producer license in Indiana and who was  
35      previously licensed for the same lines of authority in another state is  
36      not required to complete any prelicensing education or examination.  
37      However, the exemption provided by this subsection is available only  
38      if:

(1) the individual is currently licensed in the other state; or  
 (2) the application is received within ninety (90) days after the  
 cancellation of the applicant's previous license and:

(A) the other state issues a certification that, at the time of  
 cancellation, the applicant was in good standing in that state;  
 or

(B) the state's Producer Database records that are maintained  
 by the National Association of Insurance Commissioners, its  
 affiliates, or its subsidiaries, indicate that the producer is or  
 was licensed in good standing for the line of authority  
 requested.

(b) If a person is licensed as an insurance producer in another state  
 and moves to Indiana, the person, to be authorized to act as an  
 insurance producer in Indiana, must make application to become a  
 resident licensee under section 6 of this chapter within ninety (90) days  
 after establishing legal residence in Indiana. However, the person is not  
 required to take prelicensing education or examination to obtain a  
 license for any line of authority for which the person held a license in  
 the other state unless the commissioner determines otherwise by rule.

(c) An individual who:

(1) has attained the designation of chartered life underwriter,  
 certified financial planner, ~~or~~ chartered financial consultant, **or**  
**another nationally recognized designation approved by the**  
**commissioner or the National Association of Insurance**  
**Commissioners; and**

(2) applies for an insurance producer license in Indiana requesting  
 qualification under sections:

(A) 7(a)(1);

(B) 7(a)(2); or

(C) 7(a)(5);

of this chapter;

is not required to complete prelicensing education and is required to  
 take only the portion of the examination required under section 5(b) of  
 this chapter that pertains to Indiana laws and rules.

(d) An individual who: ~~has:~~

(1) **has** attained the designation of chartered property and casualty  
 underwriter, certified insurance counselor, ~~or~~ accredited advisor  
 in insurance, **or another nationally recognized designation**

**approved by the commissioner or the National Association of Insurance Commissioners; and**

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

- (A) 7(a)(3);
- (B) 7(a)(4); or
- (C) 7(a)(6);

of this chapter;

is not required to complete prelicensing education and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

**(e) An individual who:**

**(1) has attained a bachelor's degree in insurance; and**

**(2) applies for an insurance producer license in Indiana requesting qualification under section 7(a)(1) through 7(a)(6) of this chapter;**

**is not required to complete prelicensing education and is required to take only the part of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.**

SECTION 370. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

- (1) the producer's license shall never be reinstated; and
- (2) the former licensee, after the license revocation, is not eligible to submit an application for a license to the department.

(b) The commissioner may **reprimand**, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.
- (2) Violating:
  - (A) an insurance law;
  - (B) a regulation;
  - (C) a subpoena of an insurance commissioner; or

- 1 (D) an order of an insurance commissioner;  
2 of Indiana or of another state.
- 3 (3) Obtaining or attempting to obtain a license through  
4 misrepresentation or fraud.
- 5 (4) Improperly withholding, misappropriating, or converting any  
6 monies or properties received in the course of doing insurance  
7 business.
- 8 (5) Intentionally misrepresenting the terms of an actual or  
9 proposed insurance contract or application for insurance.
- 10 (6) Having been convicted of a felony.
- 11 (7) Admitting to having committed or being found to have  
12 committed any unfair trade practice or fraud in the business of  
13 insurance.
- 14 (8) Using fraudulent, coercive, or dishonest practices, or  
15 demonstrating incompetence, untrustworthiness, or financial  
16 irresponsibility in the conduct of business in Indiana or elsewhere.
- 17 (9) Having an insurance producer license, or its equivalent,  
18 denied, suspended, or revoked in any other state, province,  
19 district, or territory.
- 20 (10) Forging another's name to an application for insurance or to  
21 any document related to an insurance transaction.
- 22 (11) Improperly using notes or any other reference material to  
23 complete an examination for an insurance license.
- 24 (12) Knowingly accepting insurance business from an individual  
25 who is not licensed.
- 26 (13) Failing to comply with an administrative or court order  
27 imposing a child support obligation.
- 28 (14) Failing to pay state income tax or to comply with any  
29 administrative or court order directing payment of state income  
30 tax.
- 31 (15) Failing to satisfy the continuing education requirements  
32 established by IC 27-1-15.7.
- 33 (16) Violating section 31 of this chapter.
- 34 (17) Failing to timely inform the commissioner of a change in  
35 legal name or address, in violation of section 7(h) of this chapter.
- 36 (c) The commissioner shall refuse to:  
37 (1) issue a license; or  
38 (2) renew a license issued;

1 under this chapter to any person who is the subject of an order issued  
2 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or  
3 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

4 (d) If the commissioner refuses to renew a license or denies an  
5 application for a license, the commissioner shall notify the applicant or  
6 licensee and advise the applicant or licensee, in a writing sent through  
7 regular first class mail, of the reason for the denial of the applicant's  
8 application or the nonrenewal of the licensee's license. The applicant  
9 or licensee may, not more than sixty-three (63) days after notice of  
10 denial of the applicant's application or nonrenewal of the licensee's  
11 license is mailed, make written demand to the commissioner for a  
12 hearing before the commissioner to determine the reasonableness of the  
13 commissioner's action. The hearing shall be held not more than thirty  
14 (30) days after the applicant or licensee makes the written demand, and  
15 shall be conducted under IC 4-21.5.

16 (e) The license of a business entity may be suspended, revoked, or  
17 refused if the commissioner finds, after hearing, that a violation of an  
18 individual licensee acting on behalf of the partnership or corporation  
19 was known or should have been known by one (1) or more of the  
20 partners, officers, or managers of the partnership or corporation and:

21 (1) the violation was not reported to the commissioner; and

22 (2) no corrective action was taken.

23 (f) In addition to or in lieu of any applicable denial, suspension, or  
24 revocation of a license under subsection (b), a person may, after a  
25 hearing, be subject to the imposition by the commissioner under  
26 subsection (b) of a civil penalty of not less than fifty dollars (\$50) and  
27 not more than ten thousand dollars (\$10,000). A penalty imposed under  
28 this subsection may be enforced in the same manner as a civil  
29 judgement.

30 (g) A licensed insurance producer or limited lines producer shall,  
31 not more than ten (10) days after the producer receives a request in a  
32 registered or certified letter from the commissioner, furnish the  
33 commissioner with a full and complete report listing each insurer with  
34 which the licensee has held an appointment during the year preceding  
35 the request.

36 (h) If a licensee fails to provide the report requested under  
37 subsection (g) not more than ten (10) days after the licensee receives  
38 the request, the commissioner may, in the commissioner's sole

discretion, without a hearing, and in addition to any other sanctions allowed by law, suspend any insurance license held by the licensee pending receipt of the appointment report.

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination of a license by the commissioner under this section.

(j) The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being used or will be used by the applicant or licensee for the purpose of writing controlled business. As used in this subsection, "controlled business" means:

(1) insurance written on the interests of:

(A) the applicant or licensee;

(B) the applicant's or licensee's immediate family; or

(C) the applicant's or licensee's employer; or

(2) insurance covering:

(A) the applicant or licensee;

(B) members of the applicant's or licensee's immediate family;

or

(C) either:

(i) a corporation, limited liability company, association, or partnership; or

(ii) the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership;

of which the applicant or licensee or a member of the applicant's or licensee's immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. A license is considered to have been used or intended to be used for the purpose of writing controlled business if the commissioner finds that during any twelve (12) month period the aggregate commissions earned from the controlled business exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by the applicant or licensee during the same period.

(k) The commissioner has the authority to:

(1) enforce the provisions of; and

(2) impose any penalty or remedy authorized by;

this chapter or any other provision of this title against any person who is under investigation for or charged with a violation of this chapter or any other provision of this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(l) For purposes of this section, the violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract shall be considered a violation described in subsection (b)(2).

(m) The commissioner may order a licensee to make restitution if the commissioner finds that the licensee has committed a violation described in:

(1) subsection (b)(4);

(2) subsection (b)(7);

(3) subsection (b)(8); or

(4) subsection (b)(16).

(n) The commissioner shall notify the securities commissioner appointed under IC 23-19-6-1(a) when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license.

SECTION 371. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6,

~~(1) a resident insurance producer must complete at least twenty~~  
~~(20) twenty-four (24) hours of credit in continuing education~~  
~~courses. and~~

~~(2) a resident limited lines producer must complete at least five~~  
~~(5) hours of credit in continuing education courses.~~

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of credit in continuing education courses related to the business of title insurance with at least one (1)



hour of instruction in a structured setting or comparable self-study in each of the following:

- (1) Ethical practices in the marketing and selling of title insurance.
- (2) Title insurance underwriting.
- (3) Escrow issues.
- (4) Principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

- (1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
- (2) A limited line credit insurance producer.
- (3) **Before July 1, 2011**, an insurance producer who:
  - (A) is at least seventy (70) years of age; and
  - (B) has been a licensed insurance producer continuously for at least twenty (20) years immediately preceding the license renewal date.

(d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

- (1) after the effective date of the licensee's last renewal of a license under this chapter; or
- (2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than twenty (20) hours of credit in continuing education courses to renew the license.

(f) Except as provided in subsection (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

(g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

(h) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is in a format authorized by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and

(2) any other information required by the commissioner.

(i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.

(j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(k) A licensee who completes a continuing education course that:

(1) is approved by the commissioner under section 4 of this chapter;

(2) is held in a classroom setting; and

(3) concerns ethics;

shall receive continuing education credit for the number of hours for which the course is approved plus additional hours, not to exceed two (2) hours in a renewal period, equal to the number of hours for which the course is approved.

SECTION 372. IC 27-1-15.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

(1) Be conducted or developed by an:

(A) insurance trade association;

(B) accredited college or university;

(C) educational organization certified by the insurance

- 1 producer education and continuing education advisory council;
  - 2 or
  - 3 (D) insurance company licensed to do business in Indiana.
- (2) Provide for self-study or instruction provided by an approved
- instructor in a structured setting, as follows:
- 6 (A) For life insurance producers, not less than ~~twenty-four (24)~~  
7 **twenty (20)** hours of instruction in a structured setting or  
8 comparable self-study on:
    - 9 (i) ethical practices in the marketing and selling of
    - 10 insurance;
    - 11 (ii) requirements of the insurance laws and administrative
    - 12 rules of Indiana; and
    - 13 (iii) principles of life insurance.
  - 14 (B) For health insurance producers, not less than ~~twenty-four~~  
15 ~~(24)~~ **twenty (20)** hours of instruction in a structured setting or  
16 comparable self-study on:
    - 17 (i) ethical practices in the marketing and selling of
    - 18 insurance;
    - 19 (ii) requirements of the insurance laws and administrative
    - 20 rules of Indiana; and
    - 21 (iii) principles of health insurance.
  - 22 (C) For life and health insurance producers, not less than forty  
23 (40) hours of instruction in a structured setting or comparable  
24 self-study on:
    - 25 (i) ethical practices in the marketing and selling of
    - 26 insurance;
    - 27 (ii) requirements of the insurance laws and administrative
    - 28 rules of Indiana;
    - 29 (iii) principles of life insurance; and
    - 30 (iv) principles of health insurance.
  - 31 (D) For property and casualty insurance producers, not less  
32 than forty (40) hours of instruction in a structured setting or  
33 comparable self-study on:
    - 34 (i) ethical practices in the marketing and selling of
    - 35 insurance;
    - 36 (ii) requirements of the insurance laws and administrative
    - 37 rules of Indiana;
    - 38 (iii) principles of property insurance; and

- 1 (iv) principles of liability insurance.
- 2 (E) For personal lines producers, a minimum of ~~twenty-four~~
- 3 ~~(24)~~ **twenty (20)** hours of instruction in a structured setting or
- 4 comparable self-study on:
- 5 (i) ethical practices in the marketing and selling of
- 6 insurance;
- 7 (ii) requirements of the insurance laws and administrative
- 8 rules of Indiana; and
- 9 (iii) principles of property and liability insurance applicable
- 10 to coverages sold to individuals and families for primarily
- 11 noncommercial purposes.
- 12 (F) For title insurance producers, not less than ten (10) hours
- 13 of instruction in a structured setting or comparable self-study
- 14 on:
- 15 (i) ethical practices in the marketing and selling of title
- 16 insurance;
- 17 (ii) requirements of the insurance laws and administrative
- 18 rules of Indiana;
- 19 (iii) principles of title insurance, including underwriting and
- 20 escrow issues; and
- 21 (iv) principles of the federal Real Estate Settlement
- 22 Procedures Act (12 U.S.C. 2608).
- 23 (3) Instruction provided in a structured setting must be provided
- 24 only by individuals who meet the qualifications established by the
- 25 commissioner under subsection (b).
- 26 (b) The commissioner, after consulting with the insurance producer
- 27 education and continuing education advisory council, shall adopt rules
- 28 under IC 4-22-2 prescribing the criteria that a person must meet to
- 29 render instruction in a certified prelicensing course of study.
- 30 (c) The commissioner shall adopt rules under IC 4-22-2 prescribing
- 31 the subject matter that an insurance producer program of study must
- 32 cover to qualify for certification as a certified prelicensing course of
- 33 study under this section.
- 34 (d) The commissioner may make recommendations that the
- 35 commissioner considers necessary for improvements in course
- 36 materials.
- 37 (e) The commissioner shall designate a program of study that meets
- 38 the requirements of this section as a certified prelicensing course of

1 study for purposes of IC 27-1-15.6-6.

2 (f) The commissioner may, after notice and opportunity for a  
3 hearing, withdraw the certification of a course of study that does not  
4 maintain reasonable standards, as determined by the commissioner for  
5 the protection of the public.

6 (g) Current course materials for a prelicensing course of study that  
7 is certified under this section must be submitted to the commissioner  
8 upon request, but not less frequently than once every three (3) years.

9 SECTION 373. IC 27-1-17-3 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. No foreign or alien  
11 insurance company shall be admitted to do business in this state having  
12 a name which, at the date of such admission, could not be taken by a  
13 domestic corporation under the provisions of IC 27-1-6-3, except that  
14 the name of a foreign or alien insurance company need not include the  
15 word "company", "corporation", "incorporated", or "mutual", or one (1)  
16 of the abbreviations thereof, nor the word "insurance" or the word  
17 "assurance" provided the name of such company is authorized by the  
18 laws of the state or territory of its organization or domicile and  
19 provided such name does not negate the characteristic of such company  
20 as an insurance company. ~~No such foreign or alien insurance company~~  
21 ~~after it has been admitted shall, by amendment to its charter, assume~~  
22 ~~any name which, at the date of the filing of such amendment as~~  
23 ~~provided in this chapter, could not be taken by a domestic corporation~~  
24 ~~under the provisions of IC 27-1-6-3.~~

25 SECTION 374. IC 27-1-17-4, AS AMENDED BY P.L.193-2006,  
26 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2009]: Sec. 4. Whenever a foreign or an alien insurance  
28 company desires to be admitted to do an insurance business in this  
29 state, it shall execute in the English language and present the following  
30 to the department, at its office, accompanied by the fees prescribed by  
31 law:

32 (1) A copy of its articles of incorporation or association, with all  
33 amendments thereto, duly authenticated by the proper officer of  
34 the state, country, province, or government wherein it is  
35 incorporated or organized, or the state in which it is domiciled in  
36 the United States.

37 (2) An application for admission, executed in the manner  
38 provided in this chapter, setting forth:

- 1 (A) the name of such company;
- 2 (B) the location of its principal office or place of business
- 3 without this state;
- 4 (C) the names of the states in which it has been admitted or
- 5 qualified to do business;
- 6 (D) the character of insurance business under its articles of
- 7 incorporation or association which it intends to transact in this
- 8 state, which must conform to the class or classes set forth in
- 9 the provisions of IC 27-1-5-1;
- 10 (E) the total authorized capital stock of the company and the
- 11 amount thereof issued and outstanding, and the surplus
- 12 required of such company by the laws of the state, country,
- 13 province, or government under which it is organized, or the
- 14 state in which it is domiciled in the United States, if a stock
- 15 company, which shall equal at least the requirements set forth
- 16 in section 5(a) of this chapter;
- 17 (F) the total amount of assets and the surplus of assets over all
- 18 its liabilities, if other than a stock company, which shall equal
- 19 at least the requirements set forth in section 5(b) of this
- 20 chapter;
- 21 (G) if an alien company, the surplus of assets invested
- 22 according to the laws of the state in the United States where it
- 23 has its deposit, which shall equal at least the requirements set
- 24 forth in section 5(c) of this chapter; and
- 25 (H) such further and additional information as the department
- 26 may from time to time require.
- 27 The application shall be signed, ~~in duplicate~~ in the form
- 28 prescribed by the department, by the president or a vice president
- 29 and the secretary or an assistant secretary of the corporation, and
- 30 verified under oath by the officers signing the same.
- 31 (3) A statement of its financial condition and business, in the form
- 32 prescribed by law for annual statements, signed and sworn to by
- 33 the president or secretary or other principal officers of the
- 34 company; provided, however, that an alien company shall also
- 35 furnish a separate statement comprising only its condition and
- 36 business in the United States, which shall be signed and sworn to
- 37 by its United States manager.
- 38 (4) A copy of the last report of examination certified to by the

1 insurance commissioner or other proper supervisory official of the  
2 state in which such company is domiciled; provided, however,  
3 that the commissioner may cause an examination to be made of  
4 the condition and affairs of such company before authority to  
5 transact business in this state is given.

6 (5) A certificate from the proper official of the state, country,  
7 province, or government wherein it is incorporated or organized,  
8 or the state in which it is domiciled in the United States, that it is  
9 duly organized or incorporated under those laws and authorized  
10 to make the kind or kinds of insurance which it proposes to make  
11 in this state.

12 (6) A copy of its bylaws or regulations, if any, certified to by the  
13 secretary or similar officer of the insurance company.

14 (7) A duly executed power of attorney in a form prescribed by the  
15 department which constitutes and appoints an individual or a  
16 corporate resident of Indiana, or an authorized Indiana insurer, as  
17 the insurance company's agent, its true and lawful attorney upon  
18 whom, except as provided in section 4.2 of this chapter, all lawful  
19 processes in any action in law or in equity against it shall be  
20 served. Such power of attorney shall contain an agreement by the  
21 insurance company that any lawful process against it which may  
22 be served upon the agent as its attorney shall be of the same force  
23 and validity as if served upon the insurance company and that  
24 such power of attorney shall continue in force and be irrevocable  
25 so long as any liability of the insurance company remains  
26 outstanding in this state. Such power of attorney shall be executed  
27 by the president and secretary of the insurance company or other  
28 duly authorized officers under its seal and shall be accompanied  
29 by a certified copy of the resolution of the board of directors of  
30 the company making said appointment and authorizing the  
31 execution of said power of attorney. Service of any lawful process  
32 shall be by delivering to and leaving with the agent two (2) copies  
33 of such process, with copy of the pertinent complaint attached.  
34 The agent shall forthwith transmit to the defendant company at its  
35 last known principal place of business by registered or certified  
36 mail, return receipt requested, one (1) of the copies of such  
37 process, with complaint attached, the other copy to be retained in  
38 a record which shall show all process served upon and transmitted

1 by him. Such service shall be sufficient provided the returned  
 2 receipt or, if the defendant company shall refuse to accept such  
 3 mailing, the registered mail together with an affidavit of plaintiff  
 4 or his attorney stating that service was made upon the agent and  
 5 forwarded as above set forth but that such mail was returned by  
 6 the post office department is filed with the court. The agent shall  
 7 make information and receipts available to plaintiff, defendant, or  
 8 their attorneys. No plaintiff or complainant shall be entitled to a  
 9 judgment by default based on service authorized by this section  
 10 until the expiration of at least thirty (30) days from the date on  
 11 which either the post office receipt or the unclaimed mail together  
 12 with affidavit is filed with the court. Nothing in this section shall  
 13 limit or abridge the right to serve any process, notice, or demand  
 14 upon any company in any other manner permitted by law.

15 (8) Proof which satisfies the department that it has complied with  
 16 the financial requirements imposed in this chapter upon foreign  
 17 and alien insurance companies which transact business in this  
 18 state and that it is entitled to public confidence and that its  
 19 admission to transact business in this state will not be prejudicial  
 20 to public interest.

21 SECTION 375. IC 27-1-18-4 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Any foreign or  
 23 alien corporation admitted to do business in this state may alter or  
 24 enlarge the character of the business which it is authorized to transact  
 25 in this state under its articles of incorporation or association, and any  
 26 amendments thereof filed with the department as provided in section  
 27 3 of this chapter, by procuring an amended certificate of authority from  
 28 the department in the manner provided in subsection (b).

29 (b) Whenever a foreign or alien corporation desires to procure such  
 30 amended certificate, it shall present to the department at its office,  
 31 accompanied by the fees prescribed by law, an application for an  
 32 amended certificate of authority, setting forth the change desired in the  
 33 kind or kinds of insurance business under its articles of incorporation  
 34 or association which it intends to thereafter carry on in this state; the  
 35 application shall be filed in duplicate in the form prescribed by the  
 36 department by the president or a vice president and the secretary or an  
 37 assistant secretary of the corporation, and verified by the oaths of the  
 38 officers signing the same.



(c) Upon the presentation of such application, accompanied by the corporation's certificate of authority, the department, if it ~~find~~ **finds** that it conforms to law and that the foreign or alien company has fulfilled the requirements set forth in subsection (b) and in section 3 of this chapter, may endorse its approval upon ~~each of the duplicate copies of~~ the application, and, in case of the approval of such application and when all fees required by law shall have been paid, shall file one (1) copy of the application in its office, cancel the certificate of authority presented with the application, and issue to the corporation a new certificate of authority, which certificate shall set forth the kind or kinds of business that the corporation is authorized thereafter to transact in this state, which shall be accompanied by one (1) copy of the application bearing the endorsement of the approval of the department.

(d) Upon the issuance of the new certificate of authority by the department, the corporation therein named shall have authority thereafter to transact in this state the kind or kinds of insurance business set forth in such certificate, subject to the terms and conditions prescribed in this article.

SECTION 376. IC 27-1-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this section:

~~"Securities" means instruments as defined in IC 26-1-8.1-102.~~

**"Broker dealer" means an entity that:**

**(1) is registered with and subject to the jurisdiction of the Securities and Exchange Commission;**

**(2) maintains membership in the Securities Investor Protection Corporation; and**

**(3) has a tangible net worth of at least two hundred fifty million dollars (\$250,000,000).**

"Clearing corporation" means a corporation as defined in IC 26-1-8.1-102 except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein. "Clearing corporation" may include a corporation organized or existing under the laws of any foreign country and which is legally qualified under such laws to effect transactions in securities by computerized book entry.

1 "Direct participant" means a bank, trust company, or safety deposit  
 2 company approved by the commissioner which maintains an account  
 3 in its name in a clearing corporation and through which an insurance  
 4 company participates in a clearing corporation.

5 "Federal Reserve book-entry system" means the computerized  
 6 systems sponsored by the United States Department of the Treasury  
 7 and certain agencies and instrumentalities of the United States for  
 8 holding and transferring securities of the United States government and  
 9 such agencies and instrumentalities, respectively, in Federal Reserve  
 10 Banks through banks which are members of the Federal Reserve  
 11 System, or which otherwise have access to such computerized systems.

12 "Member bank" means a national bank, state bank, or trust company  
 13 which is a member of the Federal Reserve System and through which  
 14 an insurance company participates in the Federal Reserve book-entry  
 15 system.

16 **"Securities" means instruments as defined in IC 26-1-8.1-102.**

17 (b) Notwithstanding any other provision of law, a domestic  
 18 insurance company may deposit or arrange for the safekeeping of  
 19 securities held in or purchased for its general account and its separate  
 20 accounts in a clearing corporation or the Federal Reserve book-entry  
 21 system. When securities are deposited with a clearing corporation,  
 22 certificates representing securities of the same class of the same issuer  
 23 may be merged and held in bulk in the name of the nominee of such  
 24 clearing corporation with any other securities deposited with such  
 25 clearing corporation by any person, regardless of the ownership of such  
 26 securities, and certificates representing securities of small  
 27 denominations may be merged into one (1) or more certificates of  
 28 larger denominations. The records of any member bank **or broker**  
 29 **dealer** through which an insurance company holds securities in the  
 30 Federal Reserve book-entry system, and the records of any custodian  
 31 through which an insurance company holds securities in a clearing  
 32 corporation, shall at all times show that such securities are held for  
 33 such insurance company and for which accounts thereof. Ownership of,  
 34 and other interests in, such securities may be transferred by  
 35 bookkeeping entry on the books of such clearing corporation or in the  
 36 Federal Reserve book-entry system without, in either case, physical  
 37 delivery of certificates representing such securities.

38 (c) Any Indiana law requiring an insurance company operating

1 under the laws of Indiana to deposit assets with the department shall be  
2 deemed complied with if such deposit is made pursuant to a written  
3 agreement between the insurance company and any bank, trust  
4 company or a safety deposit company and approved by the  
5 commissioner which limits withdrawals to those sanctioned and  
6 approved by the department. Deposits so made shall be credited by the  
7 department as deposits in its possession on the basis of the insurance  
8 company's affidavit describing such deposits as to amount and nature.

9 (d) Notwithstanding any other provisions of law, securities eligible  
10 for deposit under the insurance law of this state relating to deposit of  
11 securities by an insurance company as a condition of commencing or  
12 continuing to do an insurance business in this state may be deposited  
13 with a clearing corporation or held in the Federal Reserve book-entry  
14 system. Securities deposited with a clearing corporation or held in the  
15 Federal Reserve book-entry system and used to meet the deposit  
16 requirements under the insurance laws of this state shall be under the  
17 control of the commissioner and shall not be withdrawn by the  
18 insurance company without the approval of the commissioner. Any  
19 insurance company holding such securities in such manner shall  
20 provide to the commissioner evidence issued by its custodian or a  
21 member bank through which such insurance company has deposited  
22 securities with a clearing corporation or held in the Federal Reserve  
23 book-entry system, respectively, in order to establish that the securities  
24 are actually recorded in an account in the name of the custodian or  
25 other direct participant or member bank and evidence that the records  
26 of the custodian, other participant, or member bank reflect that such  
27 securities are held subject to the order of the commissioner.

28 (e) The commissioner of insurance is authorized to promulgate rules  
29 and regulations governing the deposit by insurance companies of  
30 securities with clearing corporations and in the Federal Reserve  
31 book-entry system.

32 SECTION 377. IC 27-1-23-4 IS AMENDED TO READ AS  
33 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Material  
34 transactions within an insurance holding company system to which an  
35 insurer subject to registration is a party shall be subject to the following  
36 standards:

37 (1) The terms shall be fair and reasonable.

38 (2) The charges or fees for services performed shall be

- 1 reasonable.
- 2 (3) The expenses incurred for any payment received shall be
- 3 allocated to the insurer in conformity with customary insurance
- 4 accounting practices consistently applied.
- 5 (4) The books, accounts, and records of each party as to all
- 6 transactions described in this subsection shall be so maintained as
- 7 to clearly and accurately disclose the precise nature and details of
- 8 the transactions, including accounting information necessary to
- 9 support the reasonableness of the charges or fees to the respective
- 10 parties.
- 11 (5) The insurer's surplus as regards policyholders following any
- 12 transactions with affiliates or shareholder dividend shall be
- 13 reasonable in relation to the insurer's outstanding liabilities and
- 14 adequate to its financial needs.
- 15 (b) The following transactions involving a domestic insurer and any
- 16 person in its insurance holding company system may not be entered
- 17 into unless the insurer has notified the commissioner in writing of its
- 18 intention to enter into such transaction at least thirty (30) days prior
- 19 thereto, or such shorter period as the commissioner may permit, and the
- 20 commissioner has not disapproved it within that period:
- 21 (1) Sales, purchases, exchanges, loans or extensions of credit,
- 22 guarantees, or investments, provided those transactions are equal
- 23 to or exceed:
- 24 (A) with respect to nonlife insurers, the lesser of three percent
- 25 (3%) of the insurer's admitted assets or twenty-five percent
- 26 (25%) of surplus as regards policyholders; and
- 27 (B) with respect to life insurers, three percent (3%) of the
- 28 insurer's admitted assets;
- 29 each as of December 31 next preceding.
- 30 (2) Loans or extensions of credit to any person who is not an
- 31 affiliate, where the insurer makes those loans or extensions of
- 32 credit with the agreement or understanding that the proceeds of
- 33 such transactions, in whole or in substantial part, are to be used
- 34 to make loans or extensions of credit to, to purchase assets of, or
- 35 to make investments in, any affiliate of the insurer making such
- 36 loans or extensions of credit, provided those transactions are
- 37 equal to or exceed:
- 38 (A) with respect to nonlife insurers, the lesser of three percent

- 1 (3%) of the insurer's admitted assets or twenty-five percent  
 2 (25%) of surplus as regards policyholders; and  
 3 (B) with respect to life insurers, three percent (3%) of the  
 4 insurer's admitted assets;  
 5 each as of December 31 next preceding.
- 6 (3) Reinsurance agreements or modifications thereto in which the  
 7 amount of cash or invested assets transferred by the insurer equals  
 8 or exceeds five percent (5%) of the insurer's surplus as regards  
 9 policyholders, as of December 31 next preceding, including those  
 10 agreements that may require as consideration the transfer of assets  
 11 from an insurer to a nonaffiliate, if an agreement or understanding  
 12 exists between the insurer and nonaffiliate that any portion of the  
 13 assets will be transferred to one (1) or more affiliates of the  
 14 insurer.
- 15 (4) Management agreements, service contracts, ~~and~~ cost-sharing  
 16 arrangements, **lease agreements, and tax allocation**  
 17 **agreements.**
- 18 (5) Material transactions, specified by rule, that the commissioner  
 19 determines may adversely affect the interests of the insurer's  
 20 policyholders.
- 21 This subsection does not authorize or permit any transactions that, in  
 22 the case of an insurer not a member of the same insurance holding  
 23 company system, would be otherwise contrary to law.
- 24 (c) A domestic insurer may not enter into transactions that are part  
 25 of a plan or series of like transactions with persons within the insurance  
 26 holding company system if the purpose of those separate transactions  
 27 is to avoid the statutory threshold amount and thus avoid the review  
 28 that would occur otherwise.
- 29 (d) The commissioner, in reviewing transactions pursuant to  
 30 subsection (b), shall consider whether the transactions comply with the  
 31 standards set forth in subsection (a) and whether the transactions may  
 32 adversely affect the interests of policyholders.
- 33 (e) The commissioner shall be notified within thirty (30) days of any  
 34 investment of the domestic insurer in any one (1) corporation if the  
 35 total investment in that corporation by the insurance holding company  
 36 system exceeds ten percent (10%) of the corporation's voting securities.
- 37 (f) For purposes of this chapter, in determining whether an insurer's  
 38 surplus is reasonable in relation to the insurer's outstanding liabilities

and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance.

(3) The number and size of risks insured in each line of business.

(4) The extent of the geographical dispersion of the insurer's insured risks.

(5) The nature and extent of the insurer's reinsurance program.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio.

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

(8) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors described in subdivisions (1) through (7).

(9) The adequacy of the insurer's reserves.

(10) The quality and liquidity of investments in subsidiaries, except that the commissioner may discount or treat any such investment in subsidiaries as a disallowed asset for purposes of determining the adequacy of surplus whenever in his judgment such investment so warrants.

(11) The quality of the earnings of the insurer and the extent to which the reported earnings of the insurer include extraordinary items.

(g) No domestic insurer subject to registration under section 3 of this chapter shall pay an extraordinary dividend or make any other extraordinary distribution to its security holders until:

(1) thirty (30) days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or

(2) the commissioner shall have approved such payment within such thirty (30) day period.

(h) For purposes of subsection (g), an extraordinary dividend or distribution is any dividend or distribution of cash or other property whose fair market value, together with that of other dividends or

distributions made within the twelve (12) consecutive months ending on the date on which the proposed dividend or distribution is scheduled to be made, exceeds the greater of:

- (1) ten percent (10%) of such insurer's surplus as regards policyholders as of the most recently preceding December 31; or
- (2) the net gain from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, for the twelve (12) month period ending on the most recently preceding December 31.

(i) Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof, but such a declaration shall confer no rights upon shareholders until:

- (1) the commissioner has approved the payment of such dividend or distribution; or
- (2) the commissioner has not disapproved the payment within the thirty (30) day period referred to in subsection (g).

SECTION 378. IC 27-1-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this chapter:

(a) "Administrator" ~~except as provided in section 7.5 of this chapter,~~ means a person who directly or indirectly and on behalf of an insurer underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage offered or provided by an insurer. The term "administrator" does not include the following persons:

- (1) An employer or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees of:
  - (A) the employer;
  - (B) the subsidiary; or
  - (C) an affiliated corporation of the employer.
- (2) A union acting for its members.
- (3) An insurer.
- (4) An insurance producer:
  - (A) that is licensed under IC 27-1-15.6;
  - (B) that has:
    - (i) a life; or
    - (ii) an accident and health or sickness;

- 1           qualification under IC 27-1-15.6-7; and
- 2           (C) whose activities are limited exclusively to the sale of
- 3           insurance.
- 4           (5) A creditor acting for its debtors regarding insurance covering
- 5           a debt between them.
- 6           (6) A trust established under 29 U.S.C. 186 and the trustees,
- 7           agents, and employees acting pursuant to that trust.
- 8           (7) A trust that is exempt from taxation under Section 501(a) of
- 9           the Internal Revenue Code and:
- 10           (A) the trustees and employees acting pursuant to that trust; or
- 11           (B) a custodian and the agents and employees of the custodian
- 12           acting pursuant to a custodian account that meets the
- 13           requirements of Section 401(f) of the Internal Revenue Code.
- 14           (8) A financial institution that is subject to supervision or
- 15           examination by federal or state banking authorities to the extent
- 16           that the financial institution collects and remits premiums to an
- 17           insurance producer or an authorized insurer in connection with a
- 18           loan payment.
- 19           (9) A credit card issuing company that:
- 20           (A) advances for; and
- 21           (B) collects from, when a credit card holder authorizes the
- 22           collection;
- 23           credit card holders of the credit card issuing company, insurance
- 24           premiums or charges.
- 25           (10) A person that adjusts or settles claims in the normal course
- 26           of the person's practice or employment as an attorney at law and
- 27           that does not collect charges or premiums in connection with life,
- 28           annuity, or health coverage.
- 29           (11) A health maintenance organization that has a certificate of
- 30           authority issued under IC 27-13.
- 31           (12) A limited service health maintenance organization that has
- 32           a certificate of authority issued under IC 27-13.
- 33           (13) A mortgage lender to the extent that the mortgage lender
- 34           collects and remits premiums to an insurance producer or an
- 35           authorized insurer in connection with a loan payment.
- 36           (14) A person that:
- 37           (A) is licensed as a managing general agent as required under
- 38           IC 27-1-33; and



- 1 (B) acts exclusively within the scope of activities provided for  
 2 under the license referred to in clause (A).
- 3 (15) A person that:
- 4 (A) directly or indirectly underwrites, collects charges or  
 5 premiums from, or adjusts or settles claims on residents of  
 6 Indiana in connection with life, annuity, or health coverage  
 7 provided by an insurer;
- 8 (B) is affiliated with the insurer; and
- 9 (C) performs the duties specified in clause (A) only according  
 10 to a contract between the person and the insurer for the direct  
 11 and assumed life, annuity, or health coverage provided by the  
 12 insurer.
- 13 (b) "Affiliate" means an entity or a person that:
- 14 (1) directly or indirectly through an intermediary controls or is  
 15 controlled by; or
- 16 (2) is under common control with;  
 17 a specified entity or person.
- 18 (c) "Church plan" has the meaning set forth in IC 27-8-10-1.
- 19 (d) "Commissioner" refers to the insurance commissioner appointed  
 20 under IC 27-1-1-2.
- 21 (e) "Control" means the direct or indirect possession of the power  
 22 to direct or cause the direction of the management and policies of a  
 23 person, whether:
- 24 (1) through ownership of voting securities;
- 25 (2) by contract other than a commercial contract for goods or  
 26 nonmanagement services; or
- 27 (3) otherwise;
- 28 unless the power is the result of an official position with the person or  
 29 a corporate office held by the person. Control is presumed to exist if a  
 30 person directly or indirectly owns, controls, holds with the power to  
 31 vote, or holds proxies representing not less than ten percent (10%) of  
 32 the voting securities of another person.
- 33 (f) "Covered individual" means an individual who is covered under  
 34 a benefit program provided by an insurer.
- 35 (g) "Financial institution" means a bank, savings association, credit  
 36 union, or any other institution regulated under IC 28 or federal law.
- 37 (h) "GAAP" refers to consistently applied United States generally  
 38 accepted accounting principles.

1 (i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

2 (j) "Home state" means the District of Columbia or any state or  
3 territory of the United States in which an administrator is incorporated  
4 or maintains the administrator's principal place of business. If the place  
5 in which the administrator is incorporated or maintains the  
6 administrator's principal place of business is not governed by a law that  
7 is substantially similar to this chapter, the administrator's home state is  
8 another state:

9 (1) in which the administrator conducts the business of the  
10 administrator; and

11 (2) that the administrator declares is the administrator's home  
12 state.

13 (k) "Insurance producer" has the meaning set forth in  
14 IC 27-1-15.6-2.

15 (l) "Insurer" means:

16 (1) a person who obtains a certificate of authority under:

17 (A) IC 27-1-3-20;

18 (B) IC 27-13-3; or

19 (C) IC 27-13-34; or

20 (2) an employer that provides life, health, or annuity coverage in  
21 Indiana under a governmental plan or a church plan.

22 (m) "NAIC" refers to the National Association of Insurance  
23 Commissioners.

24 (n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.

25 (o) "Nonresident administrator" means a person that applies for or  
26 holds a license under section 12.2 of this chapter.

27 (p) "Person" has the meaning set forth in IC 27-1-15.6-2.

28 (q) "Sell" has the meaning set forth in IC 27-1-15.6-2.

29 (r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.

30 (s) "Underwrite" refers to the:

31 (1) acceptance of a group application or an individual application  
32 for coverage of an individual in accordance with the written rules  
33 of the insurer; or

34 (2) planning and coordination of a benefit program provided by  
35 an insurer.

36 (t) "Uniform application" means the current version of the NAIC  
37 uniform application for third party administrators.

38 SECTION 379. IC 27-1-25-11.1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11.1. (a) If the home state of a person is Indiana, the person shall:

(1) apply to act as an administrator in Indiana upon the uniform application; ~~and~~

**(2) pay an application fee in an amount determined by the commissioner; and**

~~(2)~~ **(3)** receive a license from the commissioner;

before performing the function of an administrator in Indiana. **The commissioner shall deposit a fee paid under subdivision (2) into the department of insurance fund established by IC 27-1-3-28.**

(b) The uniform application must include or be accompanied by the following:

(1) Basic organizational documents of the applicant, including:

(A) articles of incorporation;

(B) articles of association;

(C) partnership agreement;

(D) trade name certificate;

(E) trust agreement;

(F) shareholder agreement;

(G) other applicable documents; and

(H) amendments to the documents specified in clauses (A) through (G).

(2) Bylaws, rules, regulations, or other documents that regulate the internal affairs of the applicant.

(3) The NAIC biographical affidavits for individuals who are responsible for the conduct of affairs of the applicant, including:

(A) members of the applicant's:

(i) board of directors;

(ii) board of trustees;

(iii) executive committee; or

(iv) other governing board or committee;

(B) principal officers, if the applicant is a corporation;

(C) partners or members, if the applicant is:

(i) a partnership;

(ii) an association; or

(iii) a limited liability company;

(D) shareholders or members that hold, directly or indirectly, at least ten percent (10%) of the:

- 1 (i) voting stock;
- 2 (ii) voting securities; or
- 3 (iii) voting interest;
- 4 of the applicant; and
- 5 (E) any other person who exercises control or influence over
- 6 the affairs of the applicant.
- 7 (4) Financial information reflecting a positive net worth,
- 8 including:
  - 9 (A) audited annual financial statements prepared by an
  - 10 independent certified public accountant for the two (2) most
  - 11 recent fiscal years; or
  - 12 (B) if the applicant has been in business for less than two (2)
  - 13 fiscal years, financial statements or reports that are:
    - 14 (i) prepared in accordance with GAAP; and
    - 15 (ii) certified by an officer of the applicant;
    - 16 for any completed fiscal years and for any month during the
    - 17 current fiscal year for which financial statements or reports
    - 18 have been completed.
- 19 If an audited financial statement or report required under clause
- 20 (A) or (B) is prepared on a consolidated basis, the statement or
- 21 report must include a columnar consolidating or combining
- 22 worksheet that includes the amounts shown on the consolidated
- 23 audited financial statement or report, separately reported on the
- 24 worksheet for each entity included on the statement or report, and
- 25 an explanation of consolidating and eliminating entries.
- 26 (5) Information determined by the commissioner to be necessary
- 27 for a review of the current financial condition of the applicant.
- 28 (6) A description of the business plan of the applicant, including:
  - 29 (A) information on staffing levels and activities proposed in
  - 30 Indiana and nationwide; and
  - 31 (B) details concerning the applicant's ability to provide a
  - 32 sufficient number of experienced and qualified personnel for:
    - 33 (i) claims processing;
    - 34 (ii) record keeping; and
    - 35 (iii) underwriting.
  - 36 (7) Any other information required by the commissioner.
  - 37 (c) An administrator that applies for licensure under this section
  - 38 shall make copies of written agreements with insurers available for

1 inspection by the commissioner.

2 (d) An administrator that applies for licensure under this section  
3 shall:

4 (1) produce the administrator's accounts, records, and files for  
5 examination; and

6 (2) make the administrator's officers available to provide  
7 information concerning the affairs of the administrator;

8 whenever reasonably required by the commissioner.

9 (e) The commissioner may refuse to issue a license under this  
10 section if the commissioner determines that:

11 (1) the administrator or an individual who is responsible for the  
12 conduct of the affairs of the administrator:

13 (A) is not:

14 (i) competent;

15 (ii) trustworthy;

16 (iii) financially responsible; or

17 (iv) of good personal and business reputation; or

18 (B) has had an:

19 (i) insurance certificate of authority or insurance license; or

20 (ii) administrator certificate of authority or administrator  
21 license;

22 denied or revoked for cause by any jurisdiction;

23 (2) the financial information provided under subsection (b)(4)  
24 does not reflect that the applicant has a positive net worth; or

25 (3) any of the grounds set forth in section 12.4 of this chapter  
26 exists with respect to the administrator.

27 (f) An administrator that applies for a license under this section  
28 shall immediately notify the commissioner of a material change in:

29 (1) the ownership or control of the administrator; or

30 (2) another fact or circumstance that affects the administrator's  
31 qualification for a license.

32 The commissioner, upon receiving notice under this subsection, shall  
33 report the change to an electronic data base maintained by the NAIC or  
34 an affiliate or a subsidiary of the NAIC.

35 (g) An administrator that applies for a license under this section and  
36 will administer a governmental plan or a church plan shall obtain a  
37 bond as required under section 4(g) of this chapter.

38 (h) A license that is issued under this section is valid **for one (1)**

1       **year after the date of issuance or until:**

2               (1) the license is:

3                       (A) surrendered; or

4                       (B) suspended or revoked by the commissioner; or

5               (2) the administrator:

6                       (A) ceases to do business in Indiana; or

7                       (B) is not in compliance with this chapter;

8       **whichever occurs first.**

9       SECTION 380. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007,  
10       SECTION 191, IS AMENDED TO READ AS FOLLOWS  
11       [EFFECTIVE JULY 1, 2009]: Sec. 12.2. (a) An administrator that:

12               (1) performs the duties of an administrator in Indiana; and

13               (2) does not hold a license issued under section 11.1 of this  
14       chapter;

15       shall obtain a nonresident administrator license under this section by  
16       filing a uniform application, **accompanied by an application fee in an**  
17       **amount determined by the commissioner**, with the commissioner.

18       **The commissioner shall deposit a fee paid under this subsection**  
19       **into the department of insurance fund established by IC 27-1-3-28.**

20       (b) Unless the commissioner verifies the nonresident administrator's  
21       home state license status through an electronic data base maintained by  
22       the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform  
23       application filed under subsection (a) must be accompanied by a letter  
24       of certification from the nonresident administrator's home state,  
25       verifying that the nonresident administrator holds a resident  
26       administrator license in the home state.

27       (c) A nonresident administrator is not eligible for a nonresident  
28       administrator license under this section unless the nonresident  
29       administrator is licensed as a resident administrator in a home state that  
30       has a law or regulation that is substantially similar to this chapter.

31       (d) Except as provided in subsections (b) and (h), the commissioner  
32       shall issue a nonresident administrator license to a nonresident  
33       administrator that makes a filing under subsections (a) and (b) upon  
34       receipt of the filing.

35       (e) Unless a nonresident administrator is notified by the  
36       commissioner that the commissioner is able to verify the nonresident  
37       administrator's home state licensure through an electronic data base  
38       described in subsection (b), the nonresident administrator shall:

(1) on September 15 of each year, file a **renewal application and**  
 a statement with the commissioner affirming that the nonresident  
 administrator maintains a current license in the nonresident  
 administrator's home state; and

(2) pay **to the commissioner** a filing fee ~~as required in an~~  
**amount determined** by the commissioner.

The commissioner shall ~~collect deposit~~ a filing fee ~~required paid~~ under  
 subdivision (2) ~~and deposit the fee~~ into the department of insurance  
 fund established by IC 27-1-3-28.

(f) A nonresident administrator that applies for licensure under this  
 section shall:

(1) produce the accounts of the nonresident administrator;

(2) produce the records and files of the nonresident administrator  
 for examination; and

(3) make the officers of the nonresident administrator available to  
 provide information with respect to the affairs of the nonresident  
 administrator;

when reasonably required by the commissioner.

(g) A nonresident administrator is not required to hold a nonresident  
 administrator license in Indiana if the nonresident administrator's  
 function in Indiana is limited to the administration of life, health, or  
 annuity coverage for a total of not more than one hundred (100) Indiana  
 residents.

(h) The commissioner may refuse to issue or may delay the issuance  
 of a nonresident administrator license if the commissioner determines  
 that:

(1) due to events occurring; or

(2) based on information obtained;

after the nonresident administrator's home state's licensure of the  
 nonresident administrator, the nonresident administrator is unable to  
 comply with this chapter or grounds exist for the home state's  
 revocation or suspension of the nonresident administrator's home state  
 license.

(i) If the commissioner makes a determination described in  
 subsection (h), the commissioner:

(1) shall provide written notice of the determination to the  
 insurance regulator of the nonresident administrator's home state;  
 and

(2) may delay the issuance of a nonresident administrator license to the nonresident administrator until the commissioner determines that the nonresident administrator is able to comply with this chapter and that grounds do not exist for the home state's revocation or suspension of the nonresident administrator's home state license.

SECTION 381. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

(1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4) of this chapter.

(2) The report must be in the form and contain matters prescribed by the commissioner.

(3) The report must be verified by at least two (2) officers of the administrator.

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee **in an amount** determined by the commissioner.

The commissioner shall collect a filing fee paid under subdivision (5) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

(b) The commissioner shall review a report filed under subsection (a) not later than September 1 of the year in which the report is filed. Upon completion of the review, the commissioner shall:

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC



1 or by an affiliate or a subsidiary of the NAIC:

2 (A) indicating that the administrator is solvent and in  
3 compliance with this chapter; or

4 (B) noting deficiencies found in the report.

5 SECTION 382. IC 27-4-5-2 IS AMENDED TO READ AS  
6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) It is a Class A  
7 infraction for an insurer to transact insurance business in this state, as  
8 set forth in subsection (b), without a certificate of authority from the  
9 commissioner. However, this section does not apply to the following:

10 (1) The lawful transaction of surplus lines insurance.

11 (2) The lawful transaction of reinsurance by insurers.

12 (3) Transactions in this state involving a policy lawfully solicited,  
13 written, and delivered outside of this state covering only subjects  
14 of insurance not resident, located, or expressly to be performed in  
15 this state at the time of issuance, and which transactions are  
16 subsequent to the issuance of such policy.

17 (4) Attorneys acting in the ordinary relation of attorney and client  
18 in the adjustment of claims or losses.

19 (5) Transactions in this state involving group life and group  
20 sickness and accident or blanket sickness and accident insurance  
21 or group annuities where the master policy of such groups was  
22 lawfully issued and delivered in and pursuant to the laws of a  
23 state in which the insurer was authorized to do an insurance  
24 business, to a group organized for purposes other than the  
25 procurement of insurance, and where the policyholder is  
26 domiciled or otherwise has a bona fide situs.

27 (6) Transactions in this state relative to a policy issued or to be  
28 issued outside this state involving insurance on vessels, craft or  
29 hulls, cargos, marine builder's risk, marine protection and  
30 indemnity or other risk, including strikes and war risks commonly  
31 insured under ocean or wet marine forms of policy.

32 (7) Transactions in this state involving life insurance, health  
33 insurance, or annuities provided to religious or charitable  
34 institutions organized and operated without profit to any private  
35 shareholder or individual for the benefit of such institutions and  
36 individuals engaged in the service of such institutions.

37 (8) Transactions in this state involving contracts of insurance not  
38 readily obtainable in the ordinary insurance market and issued to

one (1) or more industrial insureds. For purposes of this section,  
an "industrial insured" means an insured:

(A) who procures the insurance of any risk or risks by use of  
the services of a full-time employee acting as an insurance  
manager or buyer or the services of a regularly retained and  
continuously qualified insurance consultant;

(B) whose aggregate annual premium for insurance on all risks  
totals at least twenty-five thousand dollars (\$25,000); ~~and~~

(C) who has at least twenty-five (25) full-time employees;

**(D) who, on or before February 1 (for the preceding six (6)  
month period ending December 31) and August 1 (for the  
preceding six (6) month period ending June 30) of each  
year, remits to the department an amount equal to two and  
five-tenths percent (2.5%) of all gross premiums upon all  
policies and contracts procured by the insured under this  
section, plus:**

**(i) ten percent (10%) of the amount due for the first  
month after the date specified in this clause during which  
the amount described in this clause is not remitted in  
compliance with this clause; and**

**(ii) an additional one percent (1%) of the amount due for  
each additional month during which the amount due  
under this clause is unpaid; and**

**(E) who files with the department, with the amount  
remitted under clause (D), an affidavit specifying all  
transactions undertaken and policies and contracts  
procured during the preceding calendar year, including  
the following:**

**(i) The description and location of the insured property  
or risk and the name of the insured.**

**(ii) The gross premiums charged for the policy or  
contract.**

**(iii) The name and home office address of the insurer  
that issues the policy or contract and the kind of  
insurance effected.**

**(iv) A statement that the insured, after diligent effort,  
was unable to procure from any insurer authorized to  
transact the particular kind of insurance business in**

**Indiana the full amount of insurance coverage required  
to protect the insured.**

(9) Transactions in Indiana involving the rendering of any service by any ambulance service provider and all fees, costs, and membership payments charged for the service. To qualify under this subdivision, the ambulance service provider:

(A) must have its ambulance service program approved by an ordinance of the legislative body of the county or city in which it operates; and

(B) may not offer any membership program that includes benefits exceeding one (1) year in duration.

(b) Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer constitutes the transaction of an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurer" as used in this section includes all persons engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.

(1) The making of or proposing to make, as an insurer, an insurance contract.

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

(3) The taking or receiving of any application for insurance.

(4) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof.

(5) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.

(6) Acting as an agent for or otherwise representing or aiding on behalf of another person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to

1 effectuation of the contract and arising out of it, or representing  
 2 or assisting a person or an insurer in the transaction of insurance  
 3 with respect to subjects of insurance resident, located, or to be  
 4 performed in this state. This subdivision does not prohibit  
 5 full-time salaried employees of a corporate insured from acting in  
 6 the capacity of an insurance manager or buyer in placing  
 7 insurance in behalf of the employer.

8 (c)(1) The failure of an insurer transacting insurance business in this  
 9 state to obtain a certificate of authority does not impair the validity of  
 10 any act or contract of such insurer and does not prevent such insurer  
 11 from defending any action at law or suit in equity in any court of this  
 12 state, but no insurer transacting insurance business in this state without  
 13 a certificate of authority may maintain an action in any court of this  
 14 state to enforce any right, claim, or demand arising out of the  
 15 transaction of such business until such insurer obtains a certificate of  
 16 authority.

17 (2) In the event of failure of any such unauthorized insurer to pay  
 18 any claim or loss within the provisions of such insurance contract, any  
 19 person who assisted or in any manner aided directly or indirectly in the  
 20 procurement of such insurance contract is liable to the insured for the  
 21 full amount of the claim or loss in the manner provided by the  
 22 insurance contract.

23 SECTION 383. IC 27-7-3-3 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a)** Any domestic  
 25 corporation having:

26 **(1)** among its purposes the insuring against loss or damage on  
 27 account of encumbrances upon or defects in the title to real estate;  
 28 **and**

29 **(2) a physical office in Indiana;**

30 is hereby authorized to organize under IC 23-1, and any foreign  
 31 corporation, having among its purposes the insuring against loss or  
 32 damage on account of encumbrances upon or defects in the title to real  
 33 estate, is hereby authorized to and may be admitted to do business in  
 34 this state under IC 23-1. Any domestic or foreign corporation,  
 35 organized or admitted to do business before or after June 7, 1937, as  
 36 provided in this section, may engage in business as a title insurance  
 37 company by complying with the provisions of this chapter.

38 **(b) A domestic corporation admitted to do business as described**

1 **in subsection (a) shall provide written notice to the department of**  
 2 **insurance and all policyholders of a change in location of the**  
 3 **domestic corporation's physical office in Indiana, including the**  
 4 **address and telephone number of the new location.**

5 SECTION 384. IC 27-7-3-3.5 IS ADDED TO THE INDIANA  
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 7 [EFFECTIVE JULY 1, 2009]: **Sec. 3.5. (a) A domestic corporation**  
 8 **admitted to do business as described in section 3 of this chapter is**  
 9 **subject to the following:**

10 (1) IC 27-1-7-11.

11 (2) IC 27-1-6-21.

12 (3) IC 27-9.

13 **(b) A foreign corporation admitted to do business as described**  
 14 **in section 3 of this chapter is subject to IC 27-1-17-9.**

15 SECTION 385. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006,  
 16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2009]: **Sec. 16.5. (a) As used in this section, "delivery state"**  
 18 **means any state other than Indiana in which a policy is delivered or**  
 19 **issued for delivery.**

20 (b) Except as provided in subsection (c), (d), or (e), a certificate may  
 21 not be issued to a resident of Indiana pursuant to a group policy that is  
 22 delivered or issued for delivery in a state other than Indiana.

23 (c) A certificate may be issued to a resident of Indiana pursuant to  
 24 a group policy not described in subsection (d) that is delivered or  
 25 issued for delivery in a state other than Indiana if:

26 (1) the delivery state has a law substantially similar to section 16  
 27 of this chapter;

28 (2) the delivery state has approved the group policy; and

29 (3) the policy or the certificate contains provisions that are:

30 (A) substantially similar to the provisions required by:

31 (i) section 19 of this chapter;

32 (ii) section 21 of this chapter; and

33 (iii) IC 27-8-5.6; and

34 (B) consistent with the requirements set forth in:

35 (i) section 24 of this chapter;

36 (ii) IC 27-8-6;

37 (iii) IC 27-8-14;

38 (iv) IC 27-8-23;

1 (v) 760 IAC 1-38.1; and

2 (vi) 760 IAC 1-39.

3 (d) A certificate may be issued to a resident of Indiana under an  
4 association group policy, a discretionary group policy, or a trust group  
5 policy that is delivered or issued for delivery in a state other than  
6 Indiana if:

7 (1) the delivery state has a law substantially similar to section 16  
8 of this chapter;

9 (2) the delivery state has approved the group policy; and

10 (3) the policy or the certificate contains provisions that are:

11 (A) substantially similar to the provisions required by:

12 (i) section 19 of this chapter or, if the policy or certificate is  
13 described in section 2.5(b)(2) of this chapter, section 2.5 of  
14 this chapter;

15 (ii) section ~~19.2~~ **19.3** of this chapter if the policy or  
16 certificate contains a waiver of coverage;

17 (iii) section 21 of this chapter; and

18 (iv) IC 27-8-5.6; and

19 (B) consistent with the requirements set forth in:

20 (i) section 15.6 of this chapter;

21 (ii) section 24 of this chapter;

22 (iii) section 26 of this chapter;

23 (iv) IC 27-8-6;

24 (v) IC 27-8-14;

25 (vi) IC 27-8-14.1;

26 (vii) IC 27-8-14.5;

27 (viii) IC 27-8-14.7;

28 (ix) IC 27-8-14.8;

29 (x) IC 27-8-20;

30 (xi) IC 27-8-23;

31 (xii) IC 27-8-24.3;

32 (xiii) IC 27-8-26;

33 (xiv) IC 27-8-28;

34 (xv) IC 27-8-29;

35 (xvi) 760 IAC 1-38.1; and

36 (xvii) 760 IAC 1-39.

37 (e) A certificate may be issued to a resident of Indiana pursuant to  
38 a group policy that is delivered or issued for delivery in a state other

1 than Indiana if the commissioner determines that the policy pursuant  
 2 to which the certificate is issued meets the requirements set forth in  
 3 section 17(a) of this chapter.

4 (f) This section does not affect any other provision of Indiana law  
 5 governing the terms or benefits of coverage provided to a resident of  
 6 Indiana under any certificate or policy of insurance.

7 SECTION 386. IC 27-8-5-17, AS AMENDED BY P.L.218-2007,  
 8 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2009]: Sec. 17. (a) A group accident and sickness insurance  
 10 policy shall not be delivered or issued for delivery in Indiana to a group  
 11 that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A),  
 12 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

13 **(1) the group applies to the commissioner for approval as a**  
 14 **discretionary group;**

15 **(2) the commissioner reviews the group according to the same**  
 16 **standards as a group described in section 16 of this chapter;**  
 17 **and**

18 **(3) the commissioner finds that:**

19 ~~(1)~~ **(A)** the issuance of the policy is not contrary to the best  
 20 interest of the public;

21 ~~(2)~~ **(B)** the issuance of the policy would result in economies of  
 22 acquisition or administration; and

23 ~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to  
 24 the premiums charged.

25 (b) Except as otherwise provided in this chapter, an insurer may  
 26 exclude or limit the coverage under a policy described in subsection (a)  
 27 on any person as to whom evidence of individual insurability is not  
 28 satisfactory to the insurer.

29 SECTION 387. IC 27-8-8-2, AS AMENDED BY P.L.193-2006,  
 30 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2009]: Sec. 2. (a) The definitions in this section apply  
 32 throughout this chapter.

33 (b) "Account" means one (1) of the two (2) accounts created under  
 34 section 3 of this chapter.

35 (c) "Annuity contract", except as provided in section 2.3(e) of this  
 36 chapter, includes:

37 (1) a guaranteed investment contract;

38 (2) a deposit administration contract;

- 1 (3) a structured settlement annuity;
  - 2 (4) an annuity issued to or in connection with a government
  - 3 lottery; and
  - 4 (5) an immediate or a deferred annuity contract.
- 5 (d) "Assessment base year" means, for an impaired insurer or
- 6 insolvent insurer, the most recent calendar year for which required
- 7 premium information is available preceding the calendar year during
- 8 which the impaired insurer's or insolvent insurer's coverage date
- 9 occurs.
- 10 (e) "Association", except when the context otherwise requires,
- 11 means the Indiana life and health insurance guaranty association
- 12 created by section 3 of this chapter.
- 13 (f) "Benefit plan" means a specific plan, fund, or program that is
- 14 established or maintained by an employer or an employee organization,
- 15 or both, that:
- 16 (1) provides retirement income to employees; or
  - 17 (2) results in a deferral of income by employees for a period
  - 18 extending to or beyond the termination of employment.
- 19 (g) "Board" refers to the board of directors of the association
- 20 selected under IC 27-8-8-4.
- 21 (h) "Called", when used in the context of assessments, means that
- 22 notice has been issued by the association to member insurers requiring
- 23 the member insurers to pay, within a time frame set forth in the notice,
- 24 an assessment that has been authorized by the board.
- 25 (i) "Commissioner" refers to the insurance commissioner appointed
- 26 under IC 27-1-1-2.
- 27 (j) "Contractual obligation" means an enforceable obligation under
- 28 a covered policy for which and to the extent that coverage is provided
- 29 under section 2.3 of this chapter.
- 30 (k) "Coverage date" means, with respect to a member insurer, the
- 31 date on which the earlier of the following occurs:
- 32 (1) The member insurer becomes an insolvent insurer.
  - 33 (2) The association determines that the association will provide
  - 34 coverage under section 5(a) of this chapter with respect to the
  - 35 member insurer.
- 36 (l) "Covered policy" means a:
- 37 (1) nongroup policy or contract;
  - 38 (2) certificate under a group policy or contract; or



1 (3) part of a policy, contract, or certificate described in  
 2 subdivisions (1) and (2);

3 for which coverage is provided under section 2.3 of this chapter.

4 (m) "Extracontractual claims" includes claims that relate to bad faith  
 5 in the payment of claims, punitive or exemplary damages, or attorney's  
 6 fees and costs.

7 (n) "Funding agreement" has the meaning set forth in  
 8 IC 27-1-12.7-1.

9 (o) "Impaired insurer" means a member insurer that is:

10 (1) not an insolvent insurer; and

11 (2) placed under an order of rehabilitation or conservation by a  
 12 court with jurisdiction.

13 (p) "Insolvent insurer" means a member insurer that is placed under  
 14 an order of liquidation with a finding of insolvency by a court with  
 15 jurisdiction.

16 (q) "Member insurer" means any person that holds a certificate of  
 17 authority to transact in Indiana any kind of insurance for which  
 18 coverage is provided under section 2.3 of this chapter. The term  
 19 includes an insurer whose certificate of authority to transact such  
 20 insurance in Indiana may have been suspended, revoked, not renewed,  
 21 or voluntarily withdrawn but does not include the following:

22 (1) A for-profit or nonprofit hospital or medical service  
 23 organization.

24 (2) A health maintenance organization under IC 27-13.

25 (3) A fraternal benefit society under IC 27-11.

26 (4) The Indiana Comprehensive Health Insurance Association or  
 27 any other mandatory state pooling plan or arrangement.

28 (5) An assessment company or another person that operates on an  
 29 assessment plan (as defined in IC 27-1-2-3(y)).

30 (6) An interinsurance or reciprocal exchange authorized by  
 31 IC 27-6-6.

32 (7) A prepaid limited service health maintenance organization or  
 33 a limited service health maintenance organization under  
 34 IC 27-13-34.

35 (8) A farm mutual insurance company under IC 27-5.1.

36 (9) A person operating as a Lloyds under IC 27-7-1.

37 (10) The political subdivision risk management fund established  
 38 by IC 27-1-29-10 and the political subdivision catastrophic

1 liability fund established by IC 27-1-29.1-7.

2 ~~(11) The small employer health reinsurance board established by~~  
 3 ~~IC 27-8-15.5-5.~~

4 ~~(12)~~ **(11)** A person similar to any person described in subdivisions  
 5 (1) through ~~(11)~~: **(10)**.

6 (r) "Moody's Corporate Bond Yield Average" means:

7 (1) the monthly average of the composite yield on seasoned  
 8 corporate bonds as published by Moody's Investors Service, Inc.;  
 9 or

10 (2) if the monthly average described in subdivision (1) is no  
 11 longer published, an alternative publication of interest rates or  
 12 yields determined appropriate by the association.

13 (s) "Multiple employer welfare arrangement" has the meaning set  
 14 forth in IC 27-1-34-1.

15 (t) "Owner" means the person:

16 (1) identified as the legal owner of a policy or contract according  
 17 to the terms of the policy or contract; or

18 (2) otherwise vested with legal title to a policy or contract through  
 19 a valid assignment completed in accordance with the terms of the  
 20 policy or contract and properly recorded as the owner on the  
 21 books of the insurer.

22 The term does not include a person with a mere beneficial interest in  
 23 a policy or contract.

24 (u) "Person" means an individual, a corporation, a limited liability  
 25 company, a partnership, an association, a governmental entity, a  
 26 voluntary organization, a trust, a trustee, or another business entity or  
 27 organization.

28 (v) "Plan sponsor" refers to only one (1) of the following with  
 29 respect to a benefit plan:

30 (1) The employer, in the case of a benefit plan established or  
 31 maintained by a single employer.

32 (2) The holding company or controlling affiliate, in the case of a  
 33 benefit plan established or maintained by affiliated companies  
 34 comprising a consolidated corporation.

35 (3) The employee organization, in the case of a benefit plan  
 36 established or maintained by an employee organization.

37 (4) In a case of a benefit plan established or maintained:

38 (A) by two (2) or more employers;

1 (B) by two (2) or more employee organizations; or  
 2 (C) jointly by one (1) or more employers and one (1) or more  
 3 employee organizations;

4 and that is not of a type described in subdivision (2), the  
 5 association, committee, joint board of trustees, or other similar  
 6 group of representatives of the parties that establish or maintain  
 7 the benefit plan.

8 (w) "Premiums" means amounts, deposits, and considerations  
 9 received on covered policies, less returned premiums, returned  
 10 deposits, returned considerations, dividends, and experience credits.

11 The term does not include the following:

12 (1) Amounts, deposits, and considerations received for policies or  
 13 contracts or parts of policies or contracts for which coverage is  
 14 not provided under section 2.3(d) of this chapter, as qualified by  
 15 section 2.3(e) of this chapter, except that an assessable premium  
 16 must not be reduced on account of the limitations set forth in  
 17 section 2.3(e)(3), 2.3(e)(15), or 2.3(f)(2) of this chapter.

18 (2) Premiums in excess of five million dollars (\$5,000,000) on an  
 19 unallocated annuity contract not issued or not connected with a  
 20 governmental benefit plan established under Section 401, 403(b),  
 21 or 457 of the United States Internal Revenue Code.

22 (x) "Principal place of business" refers to the single state in which  
 23 individuals who establish policy for the direction, control, and  
 24 coordination of the operations of an entity as a whole primarily exercise  
 25 the direction, control, and coordination, as determined by the  
 26 association in the association's reasonable judgment by considering the  
 27 following factors:

28 (1) The state in which the primary executive and administrative  
 29 headquarters of the entity is located.

30 (2) The state in which the principal office of the chief executive  
 31 officer of the entity is located.

32 (3) The state in which the board of directors or similar governing  
 33 person of the entity conducts the majority of the board of  
 34 directors' or governing person's meetings.

35 (4) The state in which the executive or management committee of  
 36 the board of directors or similar governing person of the entity  
 37 conducts the majority of the committee's meetings.

38 (5) The state from which the management of the overall

1 operations of the entity is directed.

2 However, in the case of a plan sponsor, if more than fifty percent (50%)  
3 of the participants in the plan sponsor's benefit plan are employed in a  
4 single state, that state is considered to be the principal place of business  
5 of the plan sponsor. The principal place of business of a plan sponsor  
6 of a benefit plan described in subsection (v)(4), if more than fifty  
7 percent (50%) of the participants in the plan sponsor's benefit plan are  
8 not employed in a single state, is considered to be the principal place  
9 of business of the association, committee, joint board of trustees, or  
10 other similar group of representatives of the parties that establish or  
11 maintain the benefit plan and, in the absence of a specific or clear  
12 designation of a principal place of business, is considered to be the  
13 principal place of business of the employer or employee organization  
14 that has the largest investment in the benefit plan in question on the  
15 coverage date.

16 (y) "Receivership court" refers to the court in an insolvent insurer's  
17 or impaired insurer's state that has jurisdiction over the conservation,  
18 rehabilitation, or liquidation of the insolvent insurer or impaired  
19 insurer.

20 (z) "Resident" means a person that resides or has the person's  
21 principal place of business in Indiana on the applicable coverage date.

22 (aa) "State" includes a state, the District of Columbia, Puerto Rico,  
23 and a United States possession, territory, or protectorate.

24 (bb) "Structured settlement annuity" means an annuity purchased to  
25 fund periodic payments for a plaintiff or other claimant in payment for  
26 or with respect to personal injury suffered by the plaintiff or other  
27 claimant.

28 (cc) "Supplemental contract" means a written agreement entered  
29 into for the distribution of proceeds under a life, health, or annuity  
30 policy or contract.

31 (dd) "Unallocated annuity contract" means an annuity contract or  
32 group annuity certificate:

33 (1) the owner of which is not a natural person; and

34 (2) that does not identify at least one (1) specific natural person  
35 as an annuitant;

36 except to the extent of any annuity benefits guaranteed to a natural  
37 person by an insurer under the contract or certificate. For purposes of  
38 this chapter, an unallocated annuity contract shall not be considered a

1 group policy or group contract.

2 SECTION 388. IC 27-8-11-10, AS ADDED BY P.L.111-2008,  
3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 UPON PASSAGE]: Sec. 10. (a) As used in this section, "dialysis  
5 facility" means an outpatient facility in Indiana at which a ~~dialysis~~  
6 ~~treatment~~ provider provides dialysis treatment.

7 (b) As used in this section, "contracted dialysis facility" means a  
8 dialysis facility that has entered into an agreement with a particular  
9 insurer under section 3 of this chapter.

10 (c) Notwithstanding section 1 of this chapter, as used in this section,  
11 "insured" refers only to an insured who requires dialysis treatment.

12 (d) As used in this section, "insurer" includes the following:

13 (1) An administrator licensed under IC 27-1-25.

14 (2) An agent of an insurer.

15 (e) As used in this section, "non-contracted dialysis facility" means  
16 a dialysis facility that has not entered into an agreement with a  
17 particular insurer under section 3 of this chapter.

18 (f) An insurer shall not require an insured, as a condition of  
19 coverage or reimbursement, to:

20 (1) if the nearest dialysis facility is located within thirty (30) miles  
21 of the insured's home, travel more than thirty (30) miles from the  
22 insured's home to obtain dialysis treatment; or

23 (2) if the nearest dialysis facility is located more than thirty (30)  
24 miles from the insured's home, travel a greater distance than the  
25 distance to the nearest dialysis facility to obtain dialysis  
26 treatment;

27 regardless of whether the insured chooses to receive dialysis treatment  
28 at a contracted dialysis facility or a non-contracted dialysis facility.

29 **(g) An insurer shall, upon request of the insured, make all claim**  
30 **payments for dialysis treatment payable only to the dialysis facility**  
31 **and not to the insured, regardless of whether the dialysis facility is**  
32 **a contracted dialysis facility or a non-contracted dialysis facility.**

33 **(h) A policy that is issued by an insurer that provides coverage**  
34 **for dialysis treatment may not apply:**

35 **(1) benefit restrictions;**

36 **(2) deductible, copayment, coinsurance, or other out-of-pocket**  
37 **expense requirements; or**

38 **(3) maximum lifetime coverage limitations;**

1 to the coverage for dialysis treatment that are less favorable to an  
 2 insured than the benefit restrictions, deductible, copayment,  
 3 coinsurance, or other out-of-pocket expense requirements, or  
 4 maximum lifetime coverage limitations that apply to all other  
 5 medical and surgical benefits under the policy.

6 (i) A dialysis facility or provider shall not bill an insured for any  
 7 amount that exceeds:

8 (1) the amount paid by the insurer; plus

9 (2) any applicable deductible, copayment, coinsurance, or  
 10 other expense paid by the insured;

11 in connection with dialysis treatment. An insurer that receives  
 12 from an insured written proof that a dialysis facility or provider  
 13 has violated this subsection shall not reimburse the dialysis facility  
 14 or provider for any health care services rendered to any insured  
 15 until the insurer receives written proof that the dialysis facility or  
 16 provider has canceled the bill and reimbursed the insured in full  
 17 any amount paid in relation to the amount billed in violation of this  
 18 subsection.

19 (j) The department may adopt rules under IC 4-22-2 to  
 20 implement this section.

21 SECTION 389. IC 27-8-15-1 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies  
 23 to any individual or group health insurance plan that is issued for  
 24 delivery in Indiana to at least ~~three (3)~~ two (2) employees of a small  
 25 employer located in Indiana if one (1) of the following conditions is  
 26 met:

27 (1) Any part of the premium or benefits is paid by a small  
 28 employer or any covered individual is reimbursed, whether  
 29 through wage adjustments or otherwise, by a small employer for  
 30 any part of the premium not including the administrative expenses  
 31 of administering a payroll deduction plan where the employee  
 32 contributes one hundred percent (100%) of the premium without  
 33 reimbursement.

34 (2) The health benefit plan is treated by the employer or any of the  
 35 covered individuals as part of a plan or program for purposes of  
 36 Section 106 or 162 of the United States Internal Revenue Code.

37 SECTION 390. IC 27-8-15-8.5 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) As used in this

- 1 chapter, "eligible employee" means an employee:
- 2 (1) who is employed to work at least thirty (30) hours each week;
- 3 ~~The term includes:~~
- 4 (A) a sole proprietor; and
- 5 (B) a partner in a partnership;
- 6 if the sole proprietor or partner is included as an employee under
- 7 a health insurance plan of a small employer; and
- 8 (2) who meets an applicable waiting period required by a small
- 9 employer before gaining coverage under a health insurance
- 10 policy.
- 11 **(b) The term includes:**
- 12 **(1) a sole proprietor;**
- 13 **(2) a partner in a partnership; and**
- 14 **(3) an owner of an S corporation;**
- 15 **regardless of whether the sole proprietor, partner, or owner is**
- 16 **included as an employee for purposes of taxation of a small**
- 17 **employer.**
- 18 ~~(b) (c)~~ The term does not include:
- 19 (1) an employee who works on a temporary or substitute basis; or
- 20 (2) a seasonal employee.
- 21 SECTION 391. IC 27-8-15-9 IS AMENDED TO READ AS
- 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as
- 23 provided in section 28 of this chapter, as used in this chapter, "health
- 24 insurance plan" or "plan" means any:
- 25 (1) hospital or medical expense incurred policy or certificate;
- 26 (2) hospital or medical service plan contract; or
- 27 (3) health maintenance organization subscriber contract;
- 28 provided to the employees of a small employer.
- 29 (b) The term does not include the following:
- 30 (1) Accident-only, credit, dental, vision, Medicare supplement,
- 31 long term care, or disability income insurance.
- 32 (2) Coverage issued as a supplement to liability insurance.
- 33 (3) Worker's compensation or similar insurance.
- 34 (4) Automobile medical payment insurance.
- 35 (5) A specified disease policy. ~~issued as an individual policy.~~
- 36 ~~(6) A limited benefit health insurance policy issued as an~~
- 37 ~~individual policy.~~
- 38 ~~(7) (6)~~ A short term insurance plan that:

- 1 (A) may not be renewed; and
- 2 (B) has a duration of not more than six (6) months.
- 3 ~~(8)~~ (7) A policy that provides a stipulated daily, weekly, or
- 4 monthly payment to an insured during hospital confinement;
- 5 without regard to the actual expense of the confinement;
- 6 **indemnity benefits not based on any expense incurred**
- 7 **requirement, including a plan that provides coverage for:**
- 8 (A) hospital confinement, critical illness, or intensive care;
- 9 or
- 10 (B) gaps for deductibles or copayments.
- 11 (8) A supplemental plan that always pays in addition to other
- 12 coverage.
- 13 (9) A student health plan.
- 14 (10) An employer sponsored health benefit plan that is:
- 15 (A) provided to individuals who are eligible for Medicare;
- 16 and
- 17 (B) not marketed as, or held out to be, a Medicare
- 18 supplement policy.
- 19 SECTION 392. IC 27-8-15-31 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) If an eligible
- 21 employee who has been continuously covered under a health insurance
- 22 plan for at least ninety (90) days:
- 23 (1) loses coverage under the plan as the result of:
- 24 (A) termination of employment;
- 25 (B) reduction of hours;
- 26 (C) marriage dissolution; or
- 27 (D) attainment of any age specified in the plan; and
- 28 **(2) is not eligible for continuation coverage under the federal**
- 29 **Consolidated Omnibus Budget Reconciliation Act of 1985;**
- 30 **and**
- 31 ~~(2)~~ (3) requests a conversion policy from the small employer
- 32 insurer that insured the health insurance plan;
- 33 the individual is entitled to receive a conversion policy from the small
- 34 employer insurer.
- 35 (b) A request under subsection ~~(a)(2)~~ (a) must be made within thirty
- 36 (30) days after the individual loses coverage under the health insurance
- 37 plan.
- 38 (c) The premium for a conversion policy issued under this section



shall not exceed one hundred fifty percent (150%) of the rate that would have been charged under the small employer health insurance plan with respect to the individual if the individual had been covered as an eligible employee under the plan during the same period. If the health insurance plan under which the individual was covered is canceled or is not renewed, the rates shall be based on the rate that would have been charged with respect to the individual if the plan had continued in force, as determined by the small employer insurer in accordance with standard actuarial principles.

(d) A conversion policy issued under this section must be approved by the insurance commissioner as described in IC 27-8-5-1. The commissioner may not approve a conversion policy unless the policy and its benefits are:

- (1) comparable to those required under IC 27-13-1-4(a)(2) through IC 27-13-1-4(a)(5);
- (2) reasonable in relation to the premium charged; and
- (3) in compliance with IC 27-8-6-1.

If the benefit limits of the conversion policy are not more than the benefit limits of the small employer's health insurance plan, the small employer insurer shall credit the individual with any waiting period, deductible, or coinsurance credited to the individual under the small employer's health insurance plan.

(e) This section expires on the effective date of a mechanism enacted by the general assembly to offset the potential fiscal impact on small employers and small employer insurers that results from the establishment of a continuation policy under section 31.1 of this chapter.

SECTION 393. IC 27-13-1-11.5, AS ADDED BY P.L.111-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. "Dialysis facility" means an outpatient facility in Indiana at which a ~~dialysis treatment~~ provider provides dialysis treatment.

SECTION 394. IC 27-13-2-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10. (a) A domestic health maintenance organization shall do the following:**

- (1) Maintain a physical office in Indiana.**
- (2) If the health maintenance organization changes the**

1           **location of the office maintained under subdivision (1),**  
 2           **provide written notice to the department of insurance and all**  
 3           **subscribers at least thirty (30) days before the location is**  
 4           **changed, including the address and telephone number of the**  
 5           **new location.**

6           **(b) A domestic health maintenance organization operating**  
 7           **under this article is subject to the following:**

8               **(1) IC 27-1-7-11.**

9               **(2) IC 27-1-6-21.**

10          SECTION 395. IC 27-13-34-12 IS AMENDED TO READ AS  
 11          FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. A limited service  
 12          health maintenance organization operated under this chapter is subject  
 13          to the following:

14               (1) IC 27-1-36 concerning risk based capital, unless exempted by  
 15               the commissioner under IC 27-1-36-1.

16               **(2) IC 27-13-2-10.**

17               ~~(2)~~ **(3)** IC 27-13-8, except for IC 27-13-8-2(a)(6) concerning  
 18               reports.

19               ~~(3)~~ **(4)** IC 27-13-9-3 concerning termination of providers.

20               ~~(4)~~ **(5)** IC 27-13-10-1 through IC 27-13-10-3 concerning  
 21               grievance procedures.

22               ~~(5)~~ **(6)** IC 27-13-11 concerning investments.

23               ~~(6)~~ **(7)** IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)  
 24               concerning gag clauses in contracts.

25               ~~(7)~~ **(8)** IC 27-13-21 concerning producers.

26               ~~(8)~~ **(9)** IC 27-13-29 concerning statutory construction and  
 27               relationship to other laws.

28               ~~(9)~~ **(10)** IC 27-13-30 concerning public records.

29               ~~(10)~~ **(11)** IC 27-13-31 concerning confidentiality of medical  
 30               information and limitation of liability.

31               ~~(11)~~ **(12)** IC 27-13-36-5 and IC 27-13-36-6 concerning referrals  
 32               to out of network providers and continuation of care.

33               ~~(12)~~ **(13)** IC 27-13-40 concerning comparison sheets of services  
 34               provided by the limited service health maintenance organization.

35          SECTION 396. IC 27-13-15-5, AS ADDED BY P.L.111-2008,  
 36          SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37          UPON PASSAGE]: Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used  
 38          in this section, "enrollee" refers only to an enrollee who requires

1 dialysis treatment.

2 (b) As used in this section, "health maintenance organization"  
3 includes the following:

4 (1) A limited service health maintenance organization.

5 (2) An agent of a health maintenance organization or a limited  
6 service health maintenance organization.

7 (c) A health maintenance organization shall not require an enrollee,  
8 as a condition of coverage or reimbursement, to:

9 (1) if the nearest dialysis facility is located within thirty (30) miles  
10 of the enrollee's home, travel more than thirty (30) miles from the  
11 enrollee's home to obtain dialysis treatment; or

12 (2) if the nearest dialysis facility is located more than thirty (30)  
13 miles from the enrollee's home, travel a greater distance than the  
14 distance to the nearest dialysis facility to obtain dialysis  
15 treatment;

16 regardless of whether the enrollee chooses to receive dialysis treatment  
17 at a dialysis facility that is a participating provider or a dialysis facility  
18 that is not a participating provider.

19 **(d) A health maintenance organization shall, upon request of the**  
20 **enrollee, make all claim payments for dialysis treatment payable**  
21 **only to the dialysis facility and not to the enrollee, regardless of**  
22 **whether the dialysis facility is or is not a participating provider.**

23 **(e) An individual contract or a group contract that provides**  
24 **coverage for dialysis treatment may not apply:**

25 **(1) benefit restrictions;**

26 **(2) deductible, copayment, coinsurance, or other out-of-pocket**  
27 **expense requirements; or**

28 **(3) maximum lifetime coverage limitations;**

29 **to the coverage for dialysis treatment that are less favorable to an**  
30 **enrollee than the benefit restrictions, deductible, copayment,**  
31 **coinsurance, or other out-of-pocket expense requirements, or**  
32 **maximum lifetime coverage limitations that apply to all other**  
33 **medical and surgical benefits under the individual contract or**  
34 **group contract.**

35 **(f) A dialysis treatment facility or provider shall not bill an**  
36 **enrollee for any amount that exceeds:**

37 **(1) the amount paid by the health maintenance organization;**  
38 **plus**

1           **(2) any applicable deductible, copayment, coinsurance, or**  
 2           **other expense paid by the enrollee;**  
 3           **in connection with dialysis treatment. A health maintenance**  
 4           **organization that receives from an enrollee written proof that a**  
 5           **dialysis facility or provider has violated this subsection shall not**  
 6           **reimburse the dialysis facility or provider for any health care**  
 7           **services rendered to any enrollee until the health maintenance**  
 8           **organization receives written proof that the dialysis facility or**  
 9           **provider has canceled the bill and reimbursed the enrollee in full**  
 10           **any amount paid in relation to the amount billed in violation of this**  
 11           **subsection.**

12           **(g) The department may adopt rules under IC 4-22-2 to**  
 13           **implement this section."**

14           Page 330, between lines 12 and 13, begin a new paragraph and  
 15           insert:

16           "SECTION 370.IC 31-34-20-1, AS AMENDED BY P.L.146-2008,  
 17           SECTION 602, IS AMENDED TO READ AS FOLLOWS  
 18           [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Subject to this section and  
 19           section 1.5 of this chapter, if a child is a child in need of services, the  
 20           juvenile court may enter one (1) or more of the following dispositional  
 21           decrees:

22               (1) Order supervision of the child by the department.

23               (2) Order the child to receive outpatient treatment:

24                   (A) at a social service agency or a psychological, a psychiatric,  
 25                   a medical, or an educational facility; or

26                   (B) from an individual practitioner.

27               (3) Remove the child from the child's home and authorize the  
 28               department to place the child in another home or shelter care  
 29               facility. Placement under this subdivision includes authorization  
 30               to control and discipline the child.

31               (4) Award wardship of the child to the department for  
 32               supervision, care, and placement.

33               (5) Partially or completely emancipate the child under section 6  
 34               of this chapter.

35               (6) Order the child's parent, guardian, or custodian to complete  
 36               services recommended by the department and approved by the  
 37               court under IC 31-34-16, IC 31-34-18, and IC 31-34-19.

38               (7) Order a person who is a party to refrain from direct or indirect

1 contact with the child.

2 (8) Order a perpetrator of child abuse or neglect to refrain from  
3 returning to the child's residence.

4 **(9) Order the department to place the child in the Indiana**  
5 **Soldiers' and Sailors' Children's Home established by**  
6 **IC 20-22.5-2-5 after considering:**

7 **(A) the admission requirements for the Indiana Soldiers'**  
8 **and Sailors' Children's Home under IC 20-22.5-2;**

9 **(B) the best interests of the child; and**

10 **(C) the desirability of keeping the child with the child's**  
11 **siblings.**

12 **The juvenile court may order the department to pay costs and**  
13 **expenses of placing the child in the Indiana Soldiers' and**  
14 **Sailors' Children's Home.**

15 (b) A juvenile court may not place a child in a home or facility that  
16 is located outside Indiana unless:

17 (1) the placement is recommended or approved by the director of  
18 the department or the director's designee; or

19 (2) the juvenile court makes written findings based on clear and  
20 convincing evidence that:

21 (A) the out-of-state placement is appropriate because there is  
22 not a comparable facility with adequate services located in  
23 Indiana; or

24 (B) the location of the home or facility is within a distance not  
25 greater than fifty (50) miles from the county of residence of  
26 the child.

27 (c) If a dispositional decree under this section:

28 (1) orders or approves removal of a child from the child's home or  
29 awards wardship of the child to the department; and

30 (2) is the first juvenile court order in the child in need of services  
31 proceeding that authorizes or approves removal of the child from  
32 the child's parent, guardian, or custodian;

33 the juvenile court shall include in the decree the appropriate findings  
34 and conclusions described in IC 31-34-5-3(b) and IC 31-34-5-3(c)."

35 Page 330, between lines 39 and 40, begin a new paragraph and  
36 insert:

37 "SECTION 374. IC 31-40-1-2, AS AMENDED BY P.L.146-2008,  
38 SECTION 665, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section and subject to:

(1) this chapter; and

(2) any other provisions of IC 31-34, IC 31-37, or other applicable law relating to the particular program, activity, or service for which payment is made by or through the department;

the department shall pay the cost of any child services provided by or through the department for any child or the child's parent, guardian, or custodian.

(b) The department shall pay the cost of returning a child under IC 31-37-23.

(c) Except as provided under section 2.5 of this chapter, the department is not responsible for payment of any costs of secure detention.

(d) The department is not responsible for payment of any costs or expenses for child services for a child if:

(1) the juvenile court has not entered the required findings and conclusions in accordance with IC 31-34-5-3, IC 31-34-20-1, IC 31-37-6-6, IC 31-37-19-1, or IC 31-37-19-6 (whichever is applicable); and

(2) the department has determined that the child otherwise meets the eligibility requirements for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.).

(e) In all cases under this title, **except as provided under IC 31-34-20-1(a)(9)**, if the juvenile court orders services, programs, or placements that:

(1) are not eligible for federal assistance under either Title IV-B of the federal Social Security Act (42 U.S.C. 620 et seq.) or Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); and

(2) have not been recommended or approved by the department; the department is not responsible for payment of the costs of those services, programs, or placements.

(f) The department is not responsible for payment of any costs or expenses for housing or services provided to or for the benefit of a child placed by a juvenile court in a home or facility located outside Indiana, if the placement does not comply with the conditions stated in IC 31-34-20-1(b) or IC 31-37-19-3(b).

(g) The department is not responsible for payment of any costs or expenses of child services for a delinquent child under a dispositional decree entered under IC 31-37-19, if the probation officer who prepared the predispositional report did not submit to the department the information relating to determination of eligibility of the child for assistance under Title IV-E of the Social Security Act (42 U.S.C. 670 et seq.), as required by IC 31-37-17-1(a)(3).

(h) If:

(1) the department is not responsible for payment of costs or expenses of services, programs, or placements ordered by a court for a child or the child's parent, guardian, or custodian, as provided in this section; and

(2) another source of payment for those costs or expenses is not specified in this section or other applicable law;

the county in which the child in need of services case or delinquency case was filed is responsible for payment of those costs and expenses."

Page 336, line 48, after "part in" insert "**a county in which**".

Page 336, line 48, delete "(1)." and insert "**(1) is located.**".

Page 362, delete lines 36 through 48.

Page 363, delete lines 1 through 15.

Page 364, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 391. IC 36-7-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to the following:

(1) A city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(2) A city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000).

(3) A city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000).

(4) A city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000).

**(5) Warrick County.**

SECTION 392. IC 36-7-26-2 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Present economic  
2 conditions in certain areas of certain cities are stagnant or deteriorating.

3 (b) Present economic conditions in such areas are beyond remedy  
4 and control by existing regulatory processes because of the substantial  
5 public financial commitments necessary to encourage significant  
6 increases in economic activities in such areas.

7 **(c) Economic development of certain reclaimed coal land near**  
8 **the Blue Grass Fish and Wildlife Area and Interstate Highway 164**  
9 **is vital for a county described in section 1(5) of this chapter.**

10 ~~(c)~~ **(d)** Encouraging economic development in these areas will:

11 (1) attract new businesses and encourage existing business to  
12 remain or expand;

13 (2) increase temporary and permanent employment opportunities  
14 and private sector investment;

15 (3) protect and increase state and local tax bases; and

16 (4) encourage overall economic growth in Indiana.

17 ~~(d)~~ **(e)** Redevelopment and stimulation of economic development  
18 benefit the health and welfare of the people of Indiana, are public uses  
19 and purposes for which the public money may be spent, and are of  
20 public utility and benefit.

21 ~~(e)~~ **(f)** Economic development in such areas can be accomplished  
22 only by a coordinated effort of local and state governments.

23 ~~(f)~~ **(g)** This chapter shall be liberally construed to carry out the  
24 purposes of this chapter and to provide **the county and** cities with  
25 maximum flexibility to accomplish those purposes.

26 SECTION 393. IC 36-7-26-14, AS AMENDED BY P.L.185-2005,  
27 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
28 JULY 1, 2009]: Sec. 14. (a) Whenever a commission determines that  
29 the redevelopment and economic development of an area situated  
30 within the commission's jurisdiction may require the establishment of  
31 a district, the commission shall cause to be assembled data sufficient  
32 to make the determinations required under section 15 of this chapter,  
33 including the following:

34 (1) Maps and plats showing the boundaries of the proposed  
35 district.

36 (2) A complete list of street names and the range of street  
37 numbers of each street situated in the proposed district.

38 (3) A plan for the redevelopment and economic development of



1 the proposed district. The plan must describe the local public  
 2 improvements necessary or appropriate for the redevelopment or  
 3 economic development.

4 (b) For a city described in section 1(2) or 1(3) of this chapter, the  
 5 proposed district must contain a commercial retail facility with at least  
 6 five hundred thousand (500,000) square feet, and any distributions  
 7 from the fund must be used in the area described in subsection (a) or  
 8 in areas that directly benefit the area described in subsection (a).

9 (c) For a city described in section 1(4) of this chapter, the proposed  
 10 district may not contain any territory outside the boundaries of a  
 11 redevelopment project area established within the central business  
 12 district of the city before 1985.

13 **(d) For a county described in section 1(5) of this chapter, the**  
 14 **proposed district must be located completely or in part on**  
 15 **reclaimed coal land near the Blue Grass Fish and Wildlife Area**  
 16 **and Interstate Highway 164. However, the proposed district must**  
 17 **be at least one hundred (100) yards away from the boundaries of**  
 18 **the Blue Grass Fish and Wildlife Area.**

19 SECTION 394. IC 36-7-26-16 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) **This subsection**  
 21 **does not apply to a county described in section 1(5) of this chapter.**  
 22 Upon adoption of a resolution designating a district under section 15  
 23 of this chapter, the commission shall submit the resolution to the board  
 24 for approval. In submitting the resolution to the board, the commission  
 25 shall deliver to the board:

- 26 (1) the data required under section 14 of this chapter;
- 27 (2) the information concerning the proposed redevelopment and
- 28 economic development of the proposed district; and
- 29 (3) the proposed utilization of the revenues to be received under
- 30 section 23 of this chapter.

31 This information may be modified from time to time after the initial  
 32 submission. The commission shall provide to the board any additional  
 33 information that the board may request from time to time.

34 **(b) This subsection applies only to a county described in section**  
 35 **1(5) of this chapter. Upon adoption of a resolution designating a**  
 36 **district under section 15 of this chapter, the commission shall**  
 37 **submit the resolution to the fiscal body and the county**  
 38 **commissioners of the county for ratification and then shall submit**

1 the resolution to the board for approval. In submitting the  
2 resolution to the board, the commission shall deliver to the board:

- 3 (1) the data required under section 14 of this chapter;
- 4 (2) the information concerning the proposed redevelopment  
5 and economic development of the proposed district; and
- 6 (3) the proposed use of the revenues to be received under  
7 section 23 of this chapter.

8 This information may be modified periodically after the initial  
9 submission. The commission shall provide to the board any  
10 additional information that the board requests.

11 ~~(b)~~ (c) Upon adoption of a resolution designating a district under  
12 section 15 of this chapter, and upon approval of the resolution by the  
13 board under subsection (a), the commission shall publish (in  
14 accordance with IC 5-3-1) notice of the adoption and ~~purport~~ **purpose**  
15 of the resolution and of the hearing to be held. The notice must provide  
16 a general description of the boundaries of the district and state that  
17 information concerning the district can be inspected at the  
18 commission's office. The notice must also contain a date when the  
19 commission will hold a hearing to receive and hear remonstrances and  
20 other testimony from persons interested in or affected by the  
21 establishment of the district. All affected persons, including all persons  
22 or entities owning property or doing business in the district, shall be  
23 considered notified of the pendency of the hearing and of subsequent  
24 acts, hearings, adjournments, and resolutions of the commission by the  
25 notice given under this section.

26 SECTION 395. IC 36-7-26-20 IS AMENDED TO READ AS  
27 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. **(a) This subsection**  
28 **does not apply to a county described in section 1(5) of this chapter.**  
29 The determination of the commission to create a district under this  
30 chapter, after approval by the board, must be approved by ordinance of  
31 the legislative body of the city.

32 **(b) This subsection applies only to a county described in section**  
33 **1(5) of this chapter. The determination of the commission to create**  
34 **a district under this chapter, after approval by the board, must be**  
35 **approved by ordinance of the fiscal body of the county.**

36 SECTION 396. IC 36-7-26-24 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) The commission  
38 may issue bonds, payable in whole or in part, from money distributed

1 from the fund to the commission, to finance a local public improvement  
 2 under IC 36-7-14-25.1 or may make lease rental payments for a local  
 3 public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The  
 4 term of any bonds issued under this section may not exceed ~~twenty (20)~~  
 5 **twenty-five (25)** years, nor may the term of any lease agreement  
 6 entered into under this section exceed ~~twenty (20)~~ **twenty-five (25)**  
 7 years. The commission shall transmit to the board, a transcript of the  
 8 proceedings with respect to the issuance of the bonds or the execution  
 9 and delivery of a lease agreement as contemplated by this section. The  
 10 transcript must include a debt service or lease rental schedule setting  
 11 forth all payments required in connection with the bonds or the lease  
 12 rentals.

13 (b) On January 15 of each year, the commission shall remit to the  
 14 treasurer of state the money disbursed from the fund that is credited to  
 15 the net increment account that exceeds the amount needed to pay debt  
 16 service or lease rentals and to establish and maintain a debt service  
 17 reserve under this chapter in the prior year and before May 31 of that  
 18 year. Amounts remitted under this subsection shall be deposited by the  
 19 auditor of state as other gross retail and use taxes are deposited.

20 (c) The commission in a city described in section 1(2) of this  
 21 chapter may distribute money from the fund only for the following:

- 22 (1) Road, interchange, and right-of-way improvements.
- 23 (2) Acquisition costs of a commercial retail facility and for real  
 24 property acquisition costs in furtherance of the road, interchange,  
 25 and right-of-way improvements.
- 26 (3) Demolition of commercial property and any related expenses  
 27 incurred before or after the demolition of the commercial  
 28 property.
- 29 (4) For physical improvements or alterations of property that  
 30 enhance the commercial viability of the district.

31 (d) The commission in a city described in section 1(3) of this  
 32 chapter may distribute money from the fund only for the following  
 33 purposes:

- 34 (1) For road, interchange, and right-of-way improvements and for  
 35 real property acquisition costs in furtherance of the road,  
 36 interchange, and right-of-way improvements.
- 37 (2) For the demolition of commercial property and any related  
 38 expenses incurred before or after the demolition of the

1 commercial property.

2 (e) The commission in a city described in section 1(4) of this  
3 chapter may distribute money from the fund only for the following  
4 purposes:

5 (1) For:

6 (A) the acquisition, demolition, and renovation of property;  
7 and

8 (B) site preparation and financing;  
9 related to the development of housing in the district.

10 (2) For physical improvements or alterations of property that  
11 enhance the commercial viability of the district.

12 **(f) The commission in a county described in section 1(5) of this**  
13 **chapter may distribute money from the fund for the following**  
14 **district project costs associated with the development or**  
15 **redevelopment of the district:**

16 **(1) The total cost of acquisition of all land, rights-of-way, and**  
17 **other property to be acquired, developed, or redeveloped for**  
18 **the project.**

19 **(2) Site preparation, including utilities and infrastructure.**

20 **(3) Costs associated with the construction or establishment of**  
21 **a museum and education complex and a multisport athletic**  
22 **complex that are owned or leased by entities that are exempt**  
23 **from income taxation under Section 501(c)(3) of the Internal**  
24 **Revenue Code.**

25 **(4) Road, interchange, and right-of-way improvements.**

26 **(5) Public parking facilities.**

27 **(6) All reasonable and necessary architectural, engineering,**  
28 **legal, financing, accounting, advertising, bond discount, and**  
29 **supervisory expenses related to the acquisition and**  
30 **development or redevelopment of the property or the issuance**  
31 **of bonds.**

32 **(7) Debt service, lease payments, capitalized interest, or debt**  
33 **service reserve for the bonds to the extent the commission**  
34 **determines that a reserve is reasonably required.**

35 SECTION 397. IC 36-7-26-25, AS AMENDED BY P.L.146-2008,  
36 SECTION 769, IS AMENDED TO READ AS FOLLOWS  
37 [EFFECTIVE JULY 1, 2009]: Sec. 25. **(a) This section does not apply**  
38 **to a county described in section 1(5) of this chapter.**

(b) The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district. The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted."

Page 375, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 409. IC 6-1.1-8-23 IS REPEALED [EFFECTIVE MARCH 1, 2009 (RETROACTIVE)].".

Page 375, between lines 6 and 7, begin a new paragraph and insert the following:

"SECTION 424. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 16-18-2-4; IC 16-18-2-24; IC 16-18-2-88; IC 16-18-2-172; IC 16-18-2-225; IC 16-19-6; IC 16-33-4."

Page 375, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 463. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-1-3.5-9; IC 27-1-3.5-12; IC 27-1-25-7.5; IC 27-8-15-2; IC 27-8-15.5.

SECTION 464. [EFFECTIVE JULY 1, 2009] (a) **IC 27-8-15, as amended by this act, applies to a health insurance plan (as defined in IC 27-8-15-9) that is issued, entered into, delivered, amended, or renewed after June 30, 2009.**

(b) **This SECTION expires July 1, 2014.**

SECTION 465. [EFFECTIVE UPON PASSAGE] (a) **IC 27-8-11-10, as amended by this act, applies to an agreement between an insurer and a dialysis facility that is entered into, amended, or renewed on or after the effective date of the SECTION of this act that amends IC 27-8-11-10.**

(b) **IC 27-13-15-5, as amended by this act, applies to a contract between a health maintenance organization and a dialysis facility that is entered into, amended, or renewed after the effective date**

1 **of the SECTION of this act that amends IC 27-13-15-5."**

2 Page 377, between lines 12 and 13, begin a new paragraph and  
3 insert:

4 "(k) To implement this SECTION, the

5 ~~(1)~~ office shall adopt rules under IC 4-22-2. ~~and~~

6 ~~(2) office and department of state revenue shall adopt joint rules~~  
7 ~~under IC 4-22-2.~~

8 (l) Not later than ~~July 1, 2003~~; **August 1, 2009**, the office shall do  
9 the following:

10 (1) Request the United States Department of Health and Human  
11 Services under 42 CFR 433.72 to approve waivers of 42 CFR  
12 433.68(c) and 42 CFR 433.68(d) by demonstrating compliance  
13 with 42 CFR 433.68(e)(2)(ii).

14 (2) Submit any state Medicaid plan amendments to the United  
15 States Department of Health and Human Services that are  
16 necessary to implement this SECTION.

17 (m) After approval of the waivers and state Medicaid plan  
18 amendment applied for under ~~subsection (1)~~, **this SECTION**, the office  
19 ~~and the department of state revenue~~ shall implement this SECTION  
20 effective ~~July 1, 2003~~; **August 1, 2009**.

21 (n) The select joint commission on Medicaid oversight, established  
22 by IC 2-5-26-3, shall review the implementation of this SECTION. The  
23 office may not make any change to the reimbursement for nursing  
24 facilities unless the select joint commission on Medicaid oversight  
25 recommends the reimbursement change.

26 (o) A nursing facility or a health facility may not charge the facility's  
27 residents for the amount of the quality assessment that the facility pays  
28 under this SECTION.

29 (p) The office may withdraw a state plan amendment **submitted**  
30 under ~~subsection (e), (f), or (g)~~ **this SECTION** only if the office  
31 determines that failure to withdraw the state plan amendment will  
32 result in the expenditure of state funds not funded by the quality  
33 assessment.

34 (q) If a health facility fails to pay the quality assessment under this  
35 SECTION not later than ten (10) days after the date the payment is due,  
36 the health facility shall pay interest on the quality assessment at the  
37 same rate as determined under IC 12-15-21-3(6)(A).

38 (r) ~~The following shall be provided to the state department of health:~~

~~(1) The~~ office shall report **to the state department of health** each nursing **facility and each health** facility that fails to pay the quality assessment under this SECTION not later than one hundred twenty (120) days after payment of the quality assessment is due.

~~(2) The department of state revenue shall report each health facility that is not a nursing facility that fails to pay the quality assessment under this SECTION not later than one hundred twenty (120) days after payment of the quality assessment is due.~~

(s) The state department of health shall do the following:

(1) Notify each nursing facility and each health facility reported under subsection (r) that the nursing facility's or health facility's license under IC 16-28 will be revoked if the quality assessment is not paid.

(2) Revoke the nursing facility's or health facility's license under IC 16-28 if the nursing facility or the health facility fails to pay the quality assessment.

(t) An action taken under subsection (s)(2) is governed by:

(1) IC 4-21.5-3-8; or

(2) IC 4-21.5-4.

(u) The office shall report the following information to the select joint commission on Medicaid oversight established by IC 2-5-26-3 at every meeting of the commission:

(1) Before the quality assessment is approved by the United States Centers for Medicare and Medicaid Services:

(A) an update on the progress in receiving approval for the quality assessment; and

(B) a summary of any discussions with the United States Centers for Medicare and Medicaid Services.

(2) After the quality assessment has been approved by the United States Centers for Medicare and Medicaid Services:

(A) an update on the collection of the quality assessment;

(B) a summary of the quality assessment payments owed by a nursing facility or a health facility; and

(C) any other relevant information related to the implementation of the quality assessment.

(v) This SECTION expires August 1, ~~2009~~ **2011**."

Page 382, line 20, delete "July 1, 2009," and insert "**October 1,**

1       **2009,".**

2       Page 383, line 11, delete "July 1, 2009," and insert "**October 1,**  
3       **2009,".**

4       Page 384, line 6, delete "July 1, 2009," and insert "**October 1,**  
5       **2009,".**

6       Page 385, between lines 32 and 33, begin a new paragraph and  
7       insert:

8       "SECTION 454. [EFFECTIVE UPON PASSAGE] (a) **The**  
9       **definitions in IC 2-5-31, as added by this act, apply throughout this**  
10       **SECTION.**

11       (b) **Before August 1, 2009, the voting members of the task force**  
12       **established by IC 2-5-31-3, as added by this act, shall be appointed.**

13       (c) **The task force shall hold its first meeting in August 2009 and**  
14       **conduct business the task force considers necessary.**

15       SECTION 455. [EFFECTIVE UPON PASSAGE] (a) **As used in**  
16       **this SECTION, "children's home" refers to the Indiana Soldiers'**  
17       **and Sailors' Children's Home established by IC 20-22.5-2-5 (IC**  
18       **16-33-4-5 before July 1, 2009).**

19       (b) **As used in this SECTION, "department" refers to the**  
20       **department of education established by IC 20-19-3-1.**

21       (c) **As used in this SECTION, "state superintendent" has the**  
22       **meaning set forth in IC 20-18-2-20.**

23       (d) **After June 30, 2009, the following apply:**

24       (1) **The powers and duties of the state department of health**  
25       **regarding the administration of the children's home are**  
26       **transferred to the department.**

27       (2) **All the property of the children's home is transferred from**  
28       **the state department of health to the department.**

29       (3) **An appropriation to the state department of health for the**  
30       **administration of the children's home after June 30, 2009, is**  
31       **transferred to the department.**

32       (4) **Any funds administered by the state department of health**  
33       **on behalf of the children's home:**

34       (A) **are transferred to the department; and**

35       (B) **shall be administered by the department.**

36       (5) **Positions for the children's home are transferred to the**  
37       **department.**

38       (6) **This subdivision applies to an individual employed at the**



1 children's home on January 1, 2009:

2 (A) The individual is entitled to become an employee of the  
3 children's home on the later of the following:

4 (i) July 6, 2009.

5 (ii) Seven (7) days after this act becomes law.

6 (B) The individual is entitled to have the individual's  
7 service as an employee of the children's home before July  
8 1, 2009, included for the purpose of computing all  
9 applicable employment rights and benefits with the  
10 department.

11 (7) All leases, liabilities, and obligations entered into by the  
12 state department of health for the operation of the children's  
13 home before July 1, 2009, that are legal and valid on July 1,  
14 2009, are obligations of the department beginning July 1,  
15 2009.

16 (e) Before July 16, 2009, the department with the cooperation of  
17 the state department of health shall open the children's home and  
18 offer all services provided by the children's home before the  
19 children's home closure in May 2009 before the later of the  
20 following:

21 (1) July 16, 2009.

22 (2) Fourteen (14) days after this act becomes law.

23 Any expenses incurred by the state department of health relating  
24 to this subsection shall be reimbursed by the department from  
25 funds available to administer or operate the children's home.

26 (f) Before the date the children's home opens under subsection  
27 (e), the department shall offer placement to all children residing at  
28 the children's home on January 1, 2009, and who meet the age  
29 requirements under IC 20-22.5-2-11. Children admitted to the  
30 children's home under this subsection shall be subject to any fees  
31 and admission requirements in place on January 1, 2009, until the  
32 fees or admission requirements are changed by an act of the  
33 general assembly or the superintendent of the children's home with  
34 the approval of the department.

35 (g) Notwithstanding any other statute or policy, before July 1,  
36 2009, the state department of health shall not authorize the  
37 removal, sale, or destruction of:

38 (1) instructional or residential equipment;

1           (2) furnishings;

2           (3) records;

3           (4) tools;

4           (5) vehicles; or

5           (6) artifacts;

6           located at the children's home on January 1, 2009.

7           (h) Before the later of:

8           (1) July 6, 2009; or

9           (2) Seven (7) days after this act becomes law;

10          the state department of health and the commission on public  
11          records established under IC 5-15-5.1-3 shall return any item  
12          described in subsection (g) to the children's home that was  
13          removed from the children's home after January 1, 2009. The state  
14          department of health shall ensure that the children's home receives  
15          all the proceeds for property described in subsection (g) that was  
16          sold by the state department of health after January 1, 2009.

17          (i) This SECTION expires July 1, 2011.

18          SECTION 456. [EFFECTIVE UPON PASSAGE] There is  
19          appropriated to the Indiana Soldiers' and Sailors' Children's Home  
20          two million dollars (\$2,000,000) from funds received under the  
21          federal American Recovery and Reinvestment Act of 2009. The  
22          appropriation shall be used for modernizing, renovating, and  
23          repairing the Indiana Soldiers' and Sailors' Children's Home. The  
24          appropriation is for the state fiscal year beginning July 1, 2009,  
25          and ending June 30, 2010. The appropriation is in addition to other  
26          money that may be available for this purpose.

27          SECTION 441. [EFFECTIVE UPON PASSAGE] (a) As used in  
28          this SECTION, "commission" refers to the criminal code  
29          evaluation commission established by subsection (b).

30          (b) The criminal code evaluation commission is established to  
31          evaluate the criminal laws of Indiana. If, based on the  
32          commission's evaluation, the commission determines that changes  
33          are necessary or appropriate, the commission shall make  
34          recommendations to the general assembly for the modification of  
35          the criminal laws.

36          (c) The commission may study other topics assigned by the  
37          legislative council or as directed by the commission chair.

38          (d) The commission may meet during the months of:

1 (1) July, August, and September of 2009;

2 (2) April, May, June, July, August, and September of 2010;  
3 and

4 (3) June, July, August, and September of 2011.

5 (e) The commission consists of sixteen (16) members appointed  
6 as follows:

7 (1) Four (4) members of the senate, not more than two (2) of  
8 whom may be affiliated with the same political party, to be  
9 appointed by the president pro tempore of the senate.

10 (2) Four (4) members of the house of representatives, not  
11 more than two (2) of whom may be affiliated with the same  
12 political party, to be appointed by the speaker of the house of  
13 representatives.

14 (3) The attorney general or the attorney general's designee.

15 (4) The commissioner of the department of correction or the  
16 commissioner's designee.

17 (5) The executive director of the prosecuting attorneys council  
18 of Indiana or the executive director's designee.

19 (6) The executive director of the public defender council of  
20 Indiana or the executive director's designee.

21 (7) Two (2) judges who exercise criminal jurisdiction and are  
22 appointed as follows:

23 (A) One (1) member appointed by the president pro  
24 tempore of the senate.

25 (B) One (1) member appointed by the speaker of the house  
26 of representatives.

27 (8) Two (2) professors who are employed by a law school in  
28 Indiana, have expertise in criminal law, and are appointed as  
29 follows:

30 (A) One (1) member appointed by the president pro  
31 tempore of the senate.

32 (B) One (1) member appointed by the speaker of the house  
33 of representatives.

34 (f) The chairman of the legislative council shall annually appoint  
35 a legislative member of the commission to serve as chair of the  
36 commission.

37 (g) If a legislative member of the commission ceases to be a  
38 member of the chamber from which the member was appointed,

1 the member also ceases to be a member of the commission.

2 (h) A legislative member of the commission may be removed at  
3 any time by the appointing authority who appointed the legislative  
4 member.

5 (i) If a vacancy exists on the commission, the appointing  
6 authority who appointed the former member whose position is  
7 vacant shall appoint an individual to fill the vacancy.

8 (j) The commission shall submit to the legislative council in an  
9 electronic format under IC 5-14-6:

10 (1) annual reports containing the commission's findings and  
11 recommendations before November 1 of each year; and

12 (2) a final report of the results of its study before November  
13 1, 2011.

14 (k) The Indiana criminal justice institute shall provide staff  
15 support to the commission to prepare:

16 (1) minutes of each meeting; and

17 (2) the reports required by subsection (j).

18 (l) The legislative services agency shall provide staff support to  
19 the commission to:

20 (1) advise the commission on legal matters, criminal  
21 procedures, and legal research; and

22 (2) draft potential legislation.

23 (m) Each member of the commission is entitled to receive the  
24 same per diem, mileage, and travel allowances paid to individuals  
25 who serve as legislative and lay members, respectively, of interim  
26 study committees established by the legislative council.

27 (n) The affirmative votes of a majority of all the members who  
28 serve on the commission are required for the commission to take  
29 action on any measure, including the final report.

30 (o) Except as otherwise specifically provided by this SECTION,  
31 the commission shall operate under the rules of the legislative  
32 council. All funds necessary to carry out this SECTION shall be  
33 paid from appropriations to the legislative council and the  
34 legislative services agency.

35 (p) This SECTION expires December 31, 2011."

36 Renumber all SECTIONS consecutively.

(Reference is to HB 1001(ss) as introduced.)

**and when so amended that said bill do pass.**

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Representative Crawford